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CONSTITUENT ASSEMBLY OF INDIA

CONSTITUTIONAL PRECEDENTS

(Second Series)

SELECTED CONSTITUTIONS

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CONSTITUTIONAL PRECEDENTS SECOND SERIES

INTRODUCTION TO THE FIRST EDITION

The object of this book is to present in a handy form some of the more important constitutions of the world. These fall into two broad groups: the constitutions of the British Commonwealth countries and constitutions of other countries.

The first group comprises the constitutions of Canada, Australia, South Africa, Ireland and Leeward Islands. The justification for reproducing four constitutions of the Dominion type is that each one of these has a significance of its own. For instance, though Canada and Australia are both fedarations, the Canadian federal system is essentially different from the Australian, in that the residuary powers of legislation in Canada vest in the centre, while in Australia they vest in the States. South Africa is a union and not a federation, and Ireland, whose constitution of 1937 embodies many an interesting feature, claims to be a republic though still treated as a member of the Britisn Commonwealth.

In the second group fall the constitutions of the U.S.A., the U.S.S.R., Switzerland, the Free City of Danzig and the Second Reich. The inclusion of the U.S.S.R. is a daring political experiment where peoples of different classic examples of federations which have stood the test of time and no book on constitutions would be complete without them. The constitution of the U.S.A., and Swiss constitutions calls for little comment. They are creeds, nationalities and culture have been brought together under the ages of one State, the Soviet Union. The constitution of Danzig affords an example of a Free City created as a compromise between conflicting national claims. The Weimar Constitution of Germany is representative of the numerous European constitutions that cropped up soon after the first Worll War and contains various instructive provisions. Acclaimed at the time as one of the best efforts at constitution-making it failed to fulfil any of the great expectations of its framers. Instead, it has served to be at once a lesson and a warning that the success of a constitution depends, not upon the excellence of the written instrument but upon whether it is suited to the genius of the people for whom it is made.

The texts of the constitutions of the British Empire have been taken from "Constitutions of all Countries", Volume I, 1938, published by His Majesty's Sationery Office. For most of the other texts recourse has been had to "Select Constitutions of the World" edited by Mr. B. Shiva Rao; so also for nearly all the introductory remarks. The texts have, wherever possible, been brought up-to-date.

NEW DELHI;
November 12, 1946.

B. N. RAU,
Constitutional Adviser.

CX/B 56

NOTE TO THE SECOND EDITION

Texts of the constitutions of the Republic of China and of Japan, recently adopted, have been incorporated in this edition. A Bird's-Eye View (in the form of a Chart) of the Principal Federations and Unions in the World has also been added.

April 18, 1947.

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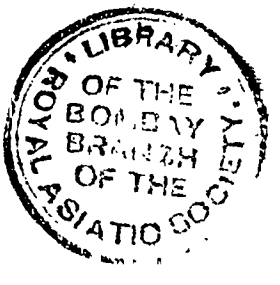

THE STATUTE OF WESTMINSTER

Act of the Imperial Parliament to give effect to certain Resolutions passed by Imperial Conferences held in the years 1926 and 1930.

(22 *Geo. V, c. 4.—December* 11, 1931)

Whereas the delegates of His Majesty's Governments in the United Kingdom, the Dominion of Canada, the Commonwealth of Australia, the Dominion of New Zealand, the Union of South Africa, the Irish Free State and Newfoundland, at Imperial Conferences holden at Westminster in the years of our Lord 1926 *and* 1930 *did concur in making the declarations and resolutions set forth in the reports of the said Conferences:*

And whereas it is meet and proper to set out by way of preamble to this Act that, inasmuch as the Crown is the symbol of the free association of the members of the British Commonwealth of Nations, and as they are united by a common allegiance to the Crown, it would be in accord with the established constitutional position of all the members of the Commonwealth in relation to one another that any alteration in the law touching the succession to the Throne or the royal style and titles shall hereafter require the assent as well of the Parliaments of all the Dominions as of the Parliament of the United Kingdom:

And whereas it is in accord with the established constitutional position that no law hereafter made by the Parliament of the United Kingdom shall extend to any of the said Dominions as part of the law of that Dominion otherwise than at the request and with the consent of that Dominion:

And whereas it is necessary for the ratifying, confirming and establishing of certain of the said declarations and resolutions of the said Conferences that a law be made and enacted in due form by authority of the Parliament of the United Kingdom:

And whereas the Dominion of Canada, the Commonwealth of Australia, the Dominion of New Zealand, the Union of South Africa, the Irish Free State and Newfoundland have severally requested and consented to the submission of a measure to the Parliament of the United Kingdom for making such provision with regard to the matters aforesaid as is hereafter in this Act contained:

Now, therefore, be it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

1. In this Act the expression "Dominion" means any of the following Dominions, that is to say, the Dominion of Canada, the Commonwealth of Australia, the Dominion of New Zealand, the Union of South Africa, the Irish Free State and Newfoundland.

2. (1) "The Colonial Laws Validity Act, 1865,"[1] shall not apply to any law made after the commencement of this Act by the Parliament of a Dominion.

(2) No law and no provision of any law made after the commencement of this Act by the Parliament of a Dominion shall be void or inoperative on the ground that it is repugnant to the law of England, or to the provisions of any existing or future Act of Parliament of the United Kingdom, or to any order

[1] 28 and 29 Vict., c. 63.

rule or regulation made under any such Act, and the powers of the Parliament of a Dominion shall include the power to repeal or amend any such Act, order, rule or regulation in so far as the same is part of the law of the Dominion.

3. It is hereby declared and enacted that the Parliament of a Dominion has full power to make laws having extra-territorial operation.

4. No Act of Parliament of the United Kingdom passed after the commencement of this Act shall extend, or be deemed to extend, to a Dominion as part of the law of that Dominion, unless it is expressly declared in that Act that that Dominion has requested, and consented to, the enactment thereof.

5. Without prejudice to the generality of the foregoing provisions of this Act, sections 735 and 736 of "The Merchant Shipping Act, 1894," [1] shall be construed as though reference therein to the Legislature of a British possession did not include reference to the Parliament of a Dominion.

6. Without prejudice to the generality of the foregoing provisions of this Act, section 4 of "The Colonial Courts of Admiralty Act, 1890" [2] (which requires certain laws to be reserved for the signification of His Majesty's pleasure or to contain a suspending clause), and so much of section 7 of that Act as requires the approval of His Majesty in Council to any rules of court for regulating the practice and procedure of a Colonial Court of Admiralty, shall cease to have effect in any Dominion as from the commencement of this Act

7. (1) Nothing in this Act shall be deemed to apply to the repeal, amendment or alteration of "The British North America Acts," 1867 to 1930, or any order, rule or regulation made thereunder.

(2) The provisions of section 2 of this Act shall extend to laws made by any of the Provinces of Canada and to the powers of the Legislatures of such Provinces.

(3) The powers conferred by this Act upon the Parliament of Canada or upon the Legislatures of the Provinces shall be restricted to the enactment of laws in relation to matters within the competence of the Parliament of Canada or of any of the Legislatures of the Provinces respectively.

8. Nothing in this Act shall be deemed to confer any power to repeal or alter the constitution or "The Constitution Act" of the Commonwealth of Australia or "The Constitution Act" of the Dominion of New Zealand otherwise than in accordance with the law existing before the commencement of this Act.

9. (1) Nothing in this Act shall be deemed to authorise the Parliament of the Commonwealth of Australia to make laws on any matter within the authority of the States of Australia, not being a matter within the authority of the Parliament or Government of the Commonwealth of Australia.

(2) Nothing in this Act shall be deemed to require the concurrence of the Parliament or Government of the Commonwealth of Australia in any law made by the Parliament of the United Kingdom with respect to any matter within the authority of the States of Australia, not being a matter within the authority of the Parliament or Government of the Commonwealth of Australia, in any case where it would have been in accordance with the constitutional practice existing before the commencement of this Act that the Parliament of the United Kingdom should make that law without such concurrence.

[1] *State Papers*, Vol. LXXXVI, p. 633.

[2] *State Papers*, Vol. LXXXII, p. 672.

(3) In the application of this Act to the Commonwealth of Australia the request and consent referred to in section 4 shall mean the request and consent of the Parliament and Government of the Commonwealth.

10. (1) None of the following sections of this Act, that is to say, sections 2, 3, 4, 5 and 6, shall extend to a Dominion to which this section applies as part of the law of that Dominion unless that section is adopted by the Parliament of the Dominion, and any Act of that Parliament adopting any section of this Act may provide that the adoption shall have effect either from the commencement of this Act or from such later date as is specified in the adopting Act.

(2) The Parliament of any such Dominion as aforesaid may at any time revoke the adoption of any section referred to in sub-section (1) of this section.

(3) The Dominions to which this section applies are the Commonwealth of Australia, the Dominion of New Zealand and Newfoundland.

11. Notwithstanding anything in "The Interpretation Act, 1889,"[1] the expression "colony" shall not, in any Act of the Parliament of the United Kingdom passed after the commencement of this Act, include a Dominion or any Province or State forming part of a Dominion.

12. This Act may be cited as "The Statute of Westminster, 1931".

[1] 52 & 53 Vict., c. 63.

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THE DOMINION OF CANADA

Land Area : 3,466,882 sq. miles. Population : 11,506,655.

The geographical entity now known as Canada was created by an Act of the Imperial Parliament in 1867. Prior to that Act the name Canada was only applied to two Provinces of the Dominion of Canada. These Provinces are now known as Ontario and Quebec, but prior to 1867 they were known respectively as Upper and Lower Canada. The Dominion of Canada is now formed of the nine Provinces of Ontario, Quebec, Nova Scotia, New Brunswick, British Columbia, Prince Edward Island, Manitoba, Saskatchewan and Alberta together with the Yukon and North-West Territories. In as much as the last three of these Provinces were formed since 1867, at the time of the passing of the Constitution the two Canadas formed the greater part of the territory of the Federation, and contained much the more important part of the population.

Indeed the historical origins of the Constitution are to be found in the history of the two Canadas. Originally, Canada had been founded as a French Colony in 1608. This colony passed by conquest under British rule in 1760, as the result of the capitulation of Quebec on September 18th, 1759, and the capitulation of Montreal, September 8th, 1760. Under the Treaty of Paris, 1763, Canada passed formally under British rule, and became the Province of Quebec, His Britannic Majesty undertaking " that His new Roman Catholic subjects may profess the worship of their religion according to the rites of the Roman Church so far as the laws of Great Britain permitted ".

The new Province was thereupon ruled by a succession of English Governors, the first of whom was instructed to appoint a Council and to summon a general Assembly of the freeholders of the Province. Certain difficulties were encountered by the growth of a small minority of British settlers, who believed that they alone should be entitled to advise the Governor and to control the administration of public affairs, and particularly the administration of law. The contest between the two languages and the two peoples produced an anomalous state of affairs. The consequence was that, as the result of the influence of a succession of Governors, a Constitutional Act, known as the Quebec Act, 1774, was passed. Under this Act all the territory now held by the Provinces of Quebec and Ontario was included in the Province of Quebec. The main provisions of the Act were, however, legal and religious, provision being made for the " free exercise of the religion of the Church of Rome ", for the right of the clergy to collect their tithes, and for release from the oath of abjuration, with an altered oath of allegiance. The Governor was instructed to constitute and appoint a Council, but the ordinances of this Council had to be referred to England, and the Council was given no power to levy taxes. This Act was the first stage in a succession of enactments by which the present Constitution was brought to pass.

After the American War of Independence the religious and racial difficulties were increased by the incursion of a number of " Unity Empire Loyalists ", who left the United States rather than forego their allegiance. Yet, though they had sacrificed their homes and fortunes they were not prepared to sacrifice the political rights which they had hitherto exercised. They had been

accustomed to representative institutions and to a considerable degree of control over the instruments of Government. Moreover, the agitation for control over the Executive, and particularly the right to control taxation, which had led to the War of Independence, had influenced them deeply ; and they were strong to press for similar rights in their new home. On the other hand, the original French colonists, owing to the circumstances under which they had previously been governed, were unaccustomed to representative institutions. To them a representative Assembly was simply " une machine anglaise pour nous taxer ". Nor, under the circumstances, were they wholly wrong in their estimate, for the English minority never imagine that their claim would imply political equality with the French majority. Their thoughts were running on lines of ascendancy.

These two elements, therefore, contended in the Province. In 1788 the controversy was removed to London by the arrival there of a representative of the British minority to press for the repeal of the Quebec Act and for the creation of representative institutions with control over taxation. As a result of these representations, together with more sagacious advice given by the Governor of the time, another Constitutional Act was passed, known as the Canada Act, 1791. This Act was the second stage in constitutional development. It divided the territory of Quebec into two Provinces, under the titles of Upper and Lower Canada. In each Province an elective House of Assembly was created with power to make laws. In order to guard against the democratic tendencies of the New Republic to the South, in each Province a nominative Upper House, to be known as the Legislative Council was created ; and power was granted to the King to attach to hereditary titles the right of being summoned to the Legislative Council. A small property qualification was required for the exercise of the franchise, and freedom for the Catholic faith was ensured.

Under the new Constitution, however, in each Province all effective administrative power and control were in the hands of an independent Executive. This Executive was appointed by the Governor, and though no laws could be made without the consent of the Assembly, the Executive was, both financially and constitutionally, independent of the Assembly. The Executive, for example, had at its disposal considerable Crown revenues, and it could also draw on the military chest furnished by the Home Government. It could, therefore, dispense with appropriations by the House of Assembly. Being constitutionally independent, the House of Assembly inconveniently exercised its right of legislation ; and though the Governor repeatedly dissolved the House, in each Province, this right was stubbornly maintained. Constant collision, therefore, occurred in each Province between the House of Assembly and the Executive Government. The result was that the Government of Upper Canada fell into the hands of small family cliques and in Lower Canada the Opposition moved from deadlock to deadlock.

For forty-six years this state of affairs survived, with continued exasperation on each side. In Upper Canada the population was almost wholly of English settlers, who were continually in revolt against "thé family compact". In Lower Canada, where the original French settlers were in the majority the constitutional contest took another complexion. For there the House of Assembly was predominantly French, whereas the Legislative Council and the Executive Council were almost wholly British. In both Provinces the demands were for a control over the Executive control of the purse, an elective Legislative Council and the independence of Judges. Finally, the

situation culminated in a concerted insurrection in both Provinces, led in Upper Canada by Mackenzie and in Lower Canada by Papineau.

During this period three of the coastal provinces had been passing through somewhat the same experiences. These three Provinces were Nova Scotia, New Brunswick and Prince Edward Island. In each of these Provinces the words " the family compact " had acquired the same evil significance that they had acquired in Upper Canada. In these provinces the demands were precisely the same as were being formulated in the two Canadas. These demands had not led to insurrection but at the time that insurrection had broken out in the larger Provinces, the causes that had led to insurrection there were matters of acute controversy in these three Provinces.

It was to such a situation that Lord Durham came as Governor-General in the summer of 1838. He came with almost autocratic powers in May, and was recalled in November for having exceeded those powers. The fruit of his visit was his "Report on the affairs of British North America". After a full examination of the causes that had led to disorder, Lord Durham recommended, first, that the two Provinces of Upper and Lower Canada should be united ; and, second, that responsible government should be established, with an Executive in which the Legislature should have confidence, and a Governor who would act in accordance with the advice given by such a Ministry. This latter recommendation he made not only for the two Canadas, but also for the maritime Provinces. His further recommendations were that provision should be made for the voluntary admission of the maritime Provinces in one union ; that the principle of representation according to population should be followed ; and that no money votes should be proposed, except on the advice of responsible ministers.

This Report led to the Union Act of 1840, which marks the third stage of constitutional development in Canada. By this Act the two Canadas were united with one House of Assembly and one Legislative Council. The event proved, however, that the Union was an error. It resulted in a majority of the British influence over the French influence of so considerable an extent as to place the French in a perpetual but powerful minority. The result was that both sides desired that the Union should be dissolved.

In the meantime, on September 1st, 1864, delegates from the three maritime Provinces met in Charlottetown to consider the question of a Maritime Union. To this Convention the Government of Canada sent a delegation with proposals for a larger union, with the result that, on October 10th, a larger Conference met at Quebec. This Conference continued until October 28th, sitting, in fact, as a Constituent Convention. It embodied its decisions, however, not in a draft Constitution, but in a series of 72 resolutions. In these resolutions the principle of federation was accepted, the two Canadas and the maritime Provinces each to have its own local Parliament with a central Federal Parliament. Provision was also made for the admission into the suggested Union of the North-West Territory, British Columbia, and Vancouver.

The Quebec Resolutions were laid before the Canadian Parliament in 1865 which dealt with them as the terms of a Treaty which could not be amended but must either be accepted or rejected as a whole. They passed the House of Assembly by a majority of 58, and the Legislative Council with small opposition. In New Brunswick the Government submitted the issue to the electorate instead of to the Legislature ; the result was a decisive verdict against federation. But soon after, there was another general election at which the verdict

was reversed and in June 1866 the Legislature passed a resolution authorising the appointment of delegates to arrange with the Imperial Government for the Union of British North America upon terms just to New Brunswick. The Nova Scotia Legislature also passed a similar resolution. In December, 1886, the delegates from New Brunswick and Nova Scotia met those from Canada at Westminster Palace Hotel in London and on Christmas Eve agreed on 69 resolutions based on those of the Quebec Conference and forwarded them to the Colonial Secretary. These formed the basis of the British North America Act, which was passed into law in March, 1867 and July 1st, 1867, was fixed as the day on which it was to come into operation.

The four Provinces of Ontario, Quebec, Nova Scotia and New Brunswick were thus federated as the Dominion of Canada. In 1869 the North-West Territories were purchased by the Dominion from the Hudson Bay Company, and in 1870 Manitoba was created out of part of these and admitted as a Province of the Dominion. British Columbia joined the Dominion in 1871 and Prince Edward Island in 1873. Alberta and Saskatchewan became Provinces of the Dominion in 1905.

The British North America Act is the Canadian Constitution. It provided not only a Federal Constitution for the Dominion of Canada, but made constitutional provision for the Government of the Provinces which came into the Federation. Under the Constitution specific legislative powers were given to the Constituent states and the residuary powers left to the Federal Parliament. In many matters Canada had reacted from the procedure of the United States. This was one of them. In the United States Constitution specific powers had been given to Congress and the residuary powers left to the states. It was felt in Canada that this had led to vexed questions concerning "State rights". It was, therefore, decided to reverse the process, with the consequence, that on July 1st, the Canadian Constitution came into being with a Legislature having full powers in all matters where powers had not been specifically delegated to the constituent Provinces.

This Constitution embodies most of the developments that had occurred in the constitutional experience of the two Canadas since the Quebec Act of 1774. Yet, in practical experience constitutional usage soon outstripped the legal right. For the development that had occurred between 1774 and 1867 continued, and did not stand still because in 1867 the development that till then had occurred was summarised in a written Fundamental Law. The consequence is that the written articles of the Constitution of 1867 are, in many matters, no sort of a guide to the constitutional practice of the present day.

The practical effect of these changes may be generally summarised in the statement that in 1867 Canada was given the constitutional status of a colony, whereas at the present time she exercises the constitutional usage of sovereign nationhood.

The Canadian Constitution has, therefore, become encrusted with a number of constitutional conventions which have considerably modified and expanded it in many of its most vital relations. The strict letter of the Constitution consequently is not a reliable guide to the ordinary practice under it. This has led to an important distinction embodied in the phrase "legal authority and constitutional right". In the strict letter the "legal authority" remain the same, but in practice the "constitutional right" has abrogated that authority. These changes extend in every direction, including issues of peace and war, treaty making, and international relations.

CONSTITUTION
OF
THE DOMINION OF CANADA

1. Act of the Imperial Parliament for the Union of Canada, Nova Scotia and New Brunswick,—March 29, 1867.

Text in *State Papers*, Vol. LVII, page 413.

Amendments

ACTS OF THE IMPERIAL PARLIAMENT :

July 19, 1875. . . . . Text in *State Papers*, Vol. LXVI, page 233.
August 9, 1907.
May 19, 1915. . . . . Text in *State Papers*, Vol. CIX, page 2.
July 10, 1930. . . . . Text in *State Papers*, Vol. CXXXII, page 57.

2. Act of the Imperial Parliament respecting the Establishment of Provinces.—June 29, 1871.

Text in *State Papers*, Vol. LXI, page 1347.

3. Act of the Imperial Parliament respecting the Representation in the Parliament of Canada of Territories forming Part of the Dominion but not included in any Province.—June 25, 1886.

Text in *State Papers*, Vol. LXXVII, page 981.

4. Act of the Imperial Parliament to make further Provision with respect to the Sums to be paid by the Dominion to the several Provinces.—August 9, 1907.

5. Letters Patent constituting the Office of Governor-General and Commander-in-Chief.—Westminster, March 23, 1931.

Text in *State Papers*, Vol. CXXXIV, page 68.

Amendment

LETTERS PATENT :

Westminster, September 25, 1935. Text in *Statutory Rules and Orders*, 1935, page 1785.

1. British North America Act, 1867
(as amended 1875, 1907, 1915 and 1930).

[30 Vict., c. 3.—March 29, 1867]

Whereas the Provinces of Canada, Nova Scotia, and New Brunswick have expressed their desire to be federally united into one Dominion, under the Crown of the United Kingdom of Great Britain and Ireland, with a constitution similar in principle to that of the United Kingdom :

And whereas such a union would conduce to the welfare of the Provinces and promote the interest of the British Empire :

And whereas on the establishment of the union by authority of Parliament it is expedient, not only that the constitution of the legislative authority in the Dominion be provided for, but also that the nature of the Executive Government therein be declared :

And whereas it is expedient that provision be made for the eventual admission into the union of other parts of British North America ;

Be it therefore enacted and declared by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords, Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same as follows :

I.—PRELIMINARY

1. This Act may be cited as "The British North America Act, 1867."

2. The provisions of this Act referring to Her Majesty the Queen extend also to the heirs and successors of Her Majesty, Kings and Queens of the United Kingdom of Great Britain and Ireland.

II.—UNION

3. It shall be lawful for the Queen, by and with the advice of Her Majesty's most Honourable Privy Council, to declare by proclamation(1) that on and after a day therein appointed, not being more than 6 months after the passing of this Act, the Provinces of Canada, Nova Scotia, and New Brunswick shall form and be one Dominion under the name of "Canada"; and on and after that day those three Provinces shall form and be one Dominion under that name accordingly.

4. The subsequent provisions of this Act shall, unless it is otherwise expressed or implied, commence and have effect on and after the union, that is to say, on and after the day appointed for the union taking effect in the Queen's proclamation; and in the same provisions, unless it is otherwise expressed or implied, the name "Canada" shall be taken to mean Canada as constituted under this Act.

5. Canada shall be divided into four Provinces, named "Ontario," "Quebec," "Nova Scotia" and "New Brunswick."

6. The parts of the Province of Canada (as it exists at the passing of this Act) which formerly constituted respectively the Provinces of Upper Canada and Lower Canada shall be deemed to be severed, and shall form two separate Provinces. The part which formerly constituted the Province of Upper Canada shall constitute the Province of Ontario;(2) and the part which formerly constituted the Province of Lower Canada shall constitute the Province of Quebec.

7. The Provinces of Nova Scotia and New Brunswick shall have the same limits as at the passing of this Act.

8. In the general census of the population of Canada which is hereby required to be taken in the year 1871, and in every tenth year thereafter, the respective populations of the four Provinces shall be distinguished.

III.—EXECUTIVE POWER

9. The Executive Government and authority of and over Canada is hereby declared to continue and be vested in the Queen.

10. The provisions of this Act referring to the Governor-General extend and apply to the Governor-General for the time being of Canada, or the Chief Executive Officer or Administrator for the time being carrying on the Government of Canada on behalf and in the name of the Queen, by whatever title he is designated.

11. There shall be a Council to aid and advise in the Government of Canada to be styled "the Queen's Privy Council for Canada"; and the persons who are to be members of that Council shall be from time to time chosen and summoned by the Governor-General and sworn in as Privy Councillors, and members thereof may be from time to time removed by the Governor-General.

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(1) The day appointed by proclamation of May 22, 1867 (*State Papers*, Vol. LVIII, page 524), was July 1, 1867.

(2) The boundaries of Ontario were declared by "The Canada (Ontario Boundary) Act, 1889," of the Imperial Parliament (*State Papers*, Vol. LXXXI, page 655).

12. All powers, authorities and functions which under any Act of the Parliament of Great Britain, or of the Parliament of the United Kingdom of Great Britain and Ireland, or of the Legislature of Upper Canada, Lower Canada, Canada, Nova Scotia or New Brunswick, are at the union vested in or exercisable by the respective Governors or Lieutenant-Governors of those Provinces, with the advice, or with the advice and consent, of the respective Executive Councils thereof, or in conjunction with these Councils, or with any number of members thereof, or by those Governors or Lieutenant-Governors individually shall as far as the same continue in existence and capable of being exercised after the union in relation to the Government of Canada, be vested in and exercisable by the Governor-General, with the advice or with the advice and consent of or in conjunction with the Queen's Privy Council for Canada, or any members thereof, or by the Governor-General individually, as the case requires, subject nevertheless (except with respect to such as exist under Acts of the Parliament of Great Britain or of the Parliament of the United Kingdom of Great Britain and Ireland) to be abolished or altered by the Parliament of Canada.

13. The provisions of this Act referring to the Governor-General in Council shall be construed as referring to the Governor-General acting by and with the advise of the Queen's Privy Council for Canada.

14. It shall be lawful for the Queen, if Her Majesty thinks fit, to authorise the Governor-General from time to time to appoint any person or any persons jointly or severally to be his deputy or deputies within any part or parts of Canada, and in that capacity to exercise during the pleasure of the Governor-General such of the powers, authorities and functions of the Governor-General as the Governor-General deems it necessary or expedient to assign to him or them, subject to any limitations or directions expressed or given by the Queen; but the appointment of such a deputy or deputies shall not affect the exercise by the Governor-General himself of any power, authority or function.

15. The command-in-chief of the land and naval militia, and of all naval and military forces, of and in Canada, is hereby declared to continue and be vested in the Queen.

16. Until the Queen otherwise directs, the seat of Government of Canada shall be Ottawa.

IV.—LEGISLATIVE POWER

17. There shall be one Parliament for Canada, consisting of the Queen, and Upper House styled "the Senate," and the House of Commons.

18. The privileges, immunities and powers to be held, enjoyed and exercised by the Senate and by the House of Commons and by the members thereof respectively shall be such as are from time to time defined by Act of the Parliament of Canada, but so that any Act of the Parliament of Canada defining such privileges, immunities and powers shall not confer any privileges, immunities or powers exceeding those at the passing of such Act held, enjoyed, and exercised by the Commons House of Parliament of the United Kingdom of Great Britain and Ireland and by the members thereof.

19. The Parliament of Canada shall be called together not later than 6 months after the union.

20. There shall be a session of the Parliament of Canada once at least in every year so that 12 months shall not intervene between the last sitting of the Parliament in one session and its first sitting in the next session.

The Senate

21. The Senate shall, subject to the provisions of this Act, consist of 96 members, who shall be styled "senators."

22([1]). In relation to the constitution of the Senate Canada shall be deemed to consist of three divisions:

(1) Ontario ;

(2 Quebec ;

(3) The maritime Provinces, Nova Scotia and New Brunswick; which three divisions shall (subject to the provisions of this Act) be equally represented in the Senate as follows : Ontario by 24 senators ; Quebec by 24 senators ; and the Maritime Provinces by 24 senators, 12 thereof representing Nova Scotia, and 12 thereof representing New Brunswick.

In the case of Quebec each of the 24 senators representing that Province shall be appointed for one of the 24 electoral divisions of Lower Canada specified in schedule A to chapter 1 of "The Consolidated statutes of Canada."

23. The qualifications of a senator shall be as follows :

(1) He shall be of the full age of 30 years.

(2) He shall be either a natural-born subject of the Queen, or a subject of the Queen naturalised by an Act of the Parliament of Great Britain, or of the Parliament of the United Kingdom of Great Britain and Ireland, or of the Legislature of one of the Provinces of Upper Canada, Lower Canada, Canada, Nova Scotia, or New Brunswick, before the union, or of the Parliament of Canada after the union.

(3) He shall be legally or equitably seised as of freehold for his own use and benefit of lands or tenements held in free and common socage, or seised or possessed for his own use and benefit of lands or tenements held in franc-alleu or in roture, within the Province for which he is appointed, of the value of 4,000 dollars, over and above all rents, dues, debts, charges, mortgages and incumbrances due or payable out of or charged on or affecting the same.

(4) His real and personal property shall be together worth 4,000 dollars over and above his debts and liabilities.

(5) He shal be resident in the Province for which he is appointed.

(6) In the case of Quebec he shall have his real property qualification in the electoral division for which he is appointed, or shall be resident in that division.

24. The Governor-General shall from time to time, in the Queen's name, by instrument under the Great Seal of Canada, summon qualified persons to the Senate ; and, subject to the provisions of this Act, every person so summoned shall become and be a member of the Senate and a senator.

25. Such persons shall be first summoned to the Senate as the Queen by warrant under Her Majesty's Royal Sign Manual thinks fit to approve, and their names shall be inserted in the Queen's proclamation of union.

([1]) Amended by section I (1) (ii) of "The British North America Act, 1915," which reads as follows :—"The divisions of Canada in relation to the constitution of the Senate provided for by section 22 of the said Act are increased from three to four, the fourth division to comprise the Western Provinces of Manitoba, British Columbia, Saskatchewan and Alberta, which four divisions shall (subject to the provisions of the said Act and of this Act) be equally represented in the senate, as follows :—Ontario by 24 senators ; Quebec by 24 senators ; the Maritime Provices and Prince Edward Island by 24 senators, 10 thereof representing Nova Scotia, 10 thereof representing New Brunswick, and 4 thereof representing Prince Edward Island ; the Western Provinces by 24 senators, 6 thereof representing Manitoba, 6 thereof representing British Columbia, 6 thereof representing Saskatchewan and 6 thereof representing Alberta."

26. If at any time on the recommendation of the Governor-General the Queen thinks fit to direct that four or eight members be added to the Senate, the Governor-General may by summons to four or eight qualified persons (as the case may be), representing equally the four divisions of Canada, add to the Senate accordingly.

27. In case of such addition being at any time made, the Governor-General shall not summon any person to the Senate, except on a further like direction by the Queen on the like recommendation, until each of the four divisions of Canada is represented by 24 senators and no more.

28. The number of senators shall not at any time exceed 104(1).

29. A senator shall, subject to the provisions of this Act, hold his place in the senate for life.

30. A senator may by writing under his hand addressed to the Governor-General resign his place in the Senate, and thereupon the same shall be vacant.

31 The place of a senator shall become vacant in any of the following cases:

(1) If for two consecutive sessions of the Parliament he fails to give his attendance in the Senate.

(2) If he takes an oath or makes a declaration or acknowledgment of allegiance, obedience or adherence to a foreign Power, or does an act whereby he becomes a subject or citizen, or entitled to the rights or privileges of a subject or citizen, of a foreign Power.

(3) If he is adjudged bankrupt or insolvent, or applies for the benefit of any law relating to insolvent debtors, or becomes a public defaulter.

(4) If he is attainted of treason or convicted of felony or of any infamous crime.

(5) If he ceases to be qualified in respect of property or of residence; provided that a senator shall not be deemed to have ceased to be qualified in respect of residence by reason only of his residing at the seat of the Government of Canada while holding an office under that Government requiring his presence there.

32. When a vacancy happens in the Senate by resignation, death or otherwise, the Governor-General shall by summons to a fit and qualified person fill the vacancy.

33. If any question arises respecting the qualification of a senator or a vacancy in the Senate the same shall be heard and determined by the Senate.

34. The Governor-General may from time to time, by instrument under the Great Seal of Canada, appoint a senator to be Speaker of the Senate, and may remove him and appoint another in his stead.

35. Until the Parliament of Canada otherwise provides, the presence of at least 15 senators, including the Speaker, shall be necessary to constitute a meeting of the Senate for the exercise of its powers.

36. Questions arising in the Senate shall be decided by a majority of voices, and the Speaker shall in all cases have a vote, and when the voices are equal the decision shall be deemed to be in the negative.

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(1) Section 1 (vi) o "The British North America Act, 1915", provides, in case Newfoundland is admitted to the Union, for a normal number of 102 and a maximum number of 110 senators.

The House of Commons

37. The House of Commons shall, subject to the provisions of this Act, consist of 181 members, of whom 82 shall be elected for Ontario, 65 for Quebec, 19 for Nova Scotia and 15 for New Brunswick.

38. The Governor-General shall from time to time, in the Queen's name by instrument under the Great Seal of Canada, summon and call together the House of Commons.

39. A senator shall not be capable of being elected or of sitting or voting as a member of the House of Commons.

40. Until the Parliament of Canada otherwise provides, Onatario, Quebec, Nova Scotia and New Brunswick shall, for the pruposes of the election of members to serve in the House of Commons, be divided into electoral districts as follows :

1.—ONTARIO

Ontario shall be divided into the counties, ridings of counties, cities parts of cities, and towns enumerated in the first schedule to this Act, each whereof shall be an electoral di trict, each such district as numbered in that schedule being entitled to return one member.

2.—QUEBEC

Quebec shall be divided into 65 electoral districts composed of the 65 electoral divisions into which Lower Canada is at the passing of this Act divided under chapter 2 of "The Consolidated Statutes of Canada," chapter 75 of "The Consolidated Statutes for Lower Canada,"and the Act of the Province of Canada of the 23rd year of the Queen, chapter 1, or any other Act amending the same in force at the union, so that each such electoral division shall be for the purposes of this Act an electoral district entitled to return one member.

3.—NOVA SCOTIA

Each of the 18 counties of Nova Scotia shall be an electoral district. The county of Halifax shall be entitled to return 2 members, and each of the other counties one member.

4.—NEW BRUNSWICK

Each of the 14 counties into which New Brunswick is divided, including the city and county of St. John, shall be an electoral district. The city of St. John shall also be a separate electoral district. Each of those 15 electoral districts shall be entitled to return one member.

41. Until the Parliament of Canada otherwise provides, all laws in force in the several Provinces, at the union relative to the following matters or any of them, namely,—the qualifications and disqualifications of persons to be elected or to sit or vote as members of the House of Assembly or Legislative Assembly in the several Provinces, the voters at elections of such members, the oaths to be taken by voters, the returning officers, their powers and duties, the proceedings at elections, the periods during which elections may be continued, the trial of controverted elections, and proceedings incident thereto, the vacating of seats of members, and the execution of new writs in case of seats vacated otherwise than by dissolution,—shall respectively apply to elections of members to serve in the House of Commons for the same several Provinces.

Provided that, until the Parliament of Canada otherwise provides, at any election for a member of the House of Commons for the district of Algoma, in addition to persons qualified by the law of the Province of Canada to vote, every male British subject, aged 21 years or upwards, being a householder, shall have a vote.

42. For the first election of members to serve in the House of Commons the Governor-General shall cause writs to be issued by such person, in such form, and addressed to such returning officers as he thinks fit.

The person issuing writs under this section shall have the like powers as are possessed at the union by the officers charged with the issuing of writs for the election of members to serve in the respective House of Assembly or Legislative Assembly of the Province of Canada, Nova Scotia or New Brunswick; and the returning officers to whom writs are directed under this section shall have the like powers as are possessed at the union by the officers charged with the returning of writs for the election of members to serve in the same respective House of Assembly or Legislative Assembly.

43. In case a vacancy in the representation in the House of Commons of any electoral district happens before the meeting of the Parliament, or after the meeting of the Parliament before provision is made by the Parliament in this behalf, the provisions of the last foregoing section of this Act shall extend and apply to the issuing and returning of a writ in respect of such vacant district.

44. The House of Commons on its first assembling after a general election shall proceed with all practicable speed to elect one of its members to be Speaker.

45. In case of a vacancy happening in the office of Speaker by death, resignation or otherwise, the House of Commons shall with all practicable speed proceed to elect another of its members to be Speaker.

46. The Speaker shall preside at all meetings of the House of Commons.

47. Until the Parliament of Canada otherwise provides, in case of the absence for any reason of the Speaker from the chair of the House of Commons for a period of 48 consecutive hours, the House may elect another of its members to act as Speaker, and the member so elected shall during the continuance of such absence of the Speaker have and execute all the powers, privileges and duties of Speaker.

48. The presence of at least 20 members of the House of Commons shall be necessary to constitute a meeting of the House for the exercise of its powers and for that purpose the Speaker shall be reckoned as a member.

49. Questions arising in the House of Commons shall be decided by a majority of voices other than that of the Speaker, and when the voices are equal, but not otherwise, the Speaker shall have a vote.

50. Every House of Commons shall continue for 5 years from the day of the return of the writs for choosing the House (subject to be sooner dissolved by the Governor-General), and no longer.

51. On the completion of the census in the year 1871, and of each subsequent decennial census, the representation of the four Provinces shall be readjusted by such authority, in such manner, and from such time, as the Parliament of Canada from time to time provides, subject and according to the following rules:

(1) Quebec shall have the fixed number of 65 members.

(2) There shall be assigned to each of the other Provinces such a number of members as will bear the same proportion to the number of its population (ascertained at such census) as the number 65 bears to the number of the population of Quebec (so ascertained).

(3) In the computation of the number of members for a Province a fractional part not exceeding one-half of the whole number requisite for entitling the Province to a member shall be disregarded ; but a fractional part exceeding one-half of that number shall be equivalent to the whole number.

(4) On any such re-adjustment the number of members for a Province shall not be reduced unless the porportion which the number of the population of the Province bore to the number of the aggregate population of Canada at the then last preceding re-adjustment of the number of members for the Province is ascertained at the then latest census to be diminished by one-twentieth part or upwards.

(5) Such re-adjustment shall not take effect until the termination of the then existing Parliament.

51A. Notwithstanding anything in this Act, a Province shall always be entitled to a number of members in the House of Commons not less than the number of senators representing such Province.

52. The number of members of the House of Commons may be from time to time increased by the Parliament of Canada, provided the proportionate representation of the Provinces prescribed by this Act is not thereby disturbed.

Money Votes : Royal Assent

53. Bills for appropriating any part of the public revenue, or for imposing any tax or impost, shall originate in the House of Commons.

54. It shall not be lawful for the House of Commons to adopt or pass any vote, resolution, address or bill for the appropriation of any part of the public revenue, or of any tax or impost, to any purpose that has not been first recommended to that House by message of the Governor-General in the session in which such vote, resolution, address or bill is proposed.

55. Where a bill passed by the Houses of the Parliament is presented to the Governor-General for the Queen's assent, he shall declare, according to his discretion, but subject to the provisions of this Act and to Her Majesty's instructions, either that he assents thereto in the Queen's name, or that he withholds the Queen's assent, or that he reserves the bill for the signification of the Queen's pleasure.

56. Where the Governor-General assents to a bill in the Queen's name, he shall by the first convenient opportunity send an authentic copy of the Act to one of Her Majesty's Principal Secretaries of State, and if the Queen in Council within 2 years after receipt thereof by the Secretary of State thinks fit to disallow the Act, such disallowance (with a certificate of the Secretary of State of the day on which the Act was received by him) being signified by the Governor-General, by speech or message to each of the Houses of the Parliament or by proclamation, shall annul the Act from and after the day of such signification.

57. A bill reserved for the signification of the Queen's pleasure shall not have any force unless and until, within 2 years from the day on which it was presented to the Governor-General for the Queen's assent the Governor-General signifies, by speech or message to each of the Houses of the Parliament or by proclamation, that it has received the assent of the Queen in Council.

An entry of every such speech, message or proclamation shall be made in the journal of each House, and a duplicate thereof duly attested shall be delivered to the proper officer to be kept among the records of Canada.

V.—PROVINCIAL CONSTITUTIONS

Executive Power

58. For each Province there shall be an officer, styled "the Lieutenant-Governor," appointed by the Governor-General in Council by instrument under the Great Seal of Canada.

59. A Lieutenant-Governor shall hold office during the pleasure of the Governor-General; but any Lieutenant-Governor appointed after the commencement of the first session of the Parliament of Canada shall not be removable within 5 years from his appointment, except for cause assigned, which shall be communicated to him in writing within one month after the order for his removal is made, and shall be communicated by message to the Senate and to the House of Commons within one week thereafter if the Parliament is then sitting, and if not then within one week after the commencement of the next session of the Parliament.

60. The salaries of the Lieutenant-Governors shall be fixed and provided by the Parliament of Canada.

61. Every Lieutenant-Governor shall, before assuming the duties of his office, make and subscribe before the Governor-General or some person authorised by him oaths of allegiance and office similar to those taken by the Governor-General.

62. The provisions of this Act referring to the Lieutenant-Governor extend and apply to the Lieutenant-Governor for the time being of each Province, or other the Chief Eecutive Officer or Administrator for the time being carrying on the Government of the Province, by whatever title he is designated.

63. The Executive Council of Ontario and of Quebec shall be composed of such persons as the Lieutenant-Governor from time to time thinks fit, and in the first instance of the following officers, namely,—the Attorney-General, the Secretary and Registrar of the Province, the Treasurer of the Province, the Commissioner of Crown Lands, and the Commissioner of Agriculture and Public Works, within Quebec the Speaker of the Legislative Council and the Solicitor-General.

64. The constitution of the executive authority in each of the Provinces of Nova Scotia and New Brunswick shall, subject to the provisions of this Act, continue as it exists at the union until altered under the authority of this Act.

65. All powers, authorities, and functions which under any Act of the Parliament of Great Britain, or of the Parliament of the United Kingdom of Great Britain and Ireland, or of the Legislature of Upper Canada, Lower Canada or Canada were or are before or at the union vested in or exercisable by the respective Governors or Lieutenant-Governors of those Provinces, with the advice or with the advice and consent of the respective Executive Councils thereof, or in conjunction with those Councils, or with any number of members thereof, or by those Governors or Lieutenant-Governors individually, shall,

as far as the same are capable of being exercised after the union in relation to the Government of Ontario and Quebec respectively, be vested in and shall or may be exercised by the Lieutenant-Governor of Ontario and Quebec respectively, with the advice or with the advice and consent of or in conjunction with the respective Executive Councils, or any members thereof, or by the Lieutenant Governor individually, as the case requires, subject nevertheless (except with respect to such as exist under Acts of the Parliament of Great Britain, or of the Parliament of the United Kingdom of Great Britain and Ireland), to be abolished or altered by the respective Legislatures of Ontario and Quebec.

66. The provisions of this Act referring to the Lieutenant-Governor in Council shall be construed as referring to the Lieutenant-Governor of the Province acting by and with the advice of the Executive Council thereof.

67. The Governor-General in Council may from time to time appoint an Administrator to execute the office and functions of Lieutenant-Governor during his absence, illness or other inability.

68. Unless and until the Executive Government of any Province otherwise directs with respect to that Province, the seats of Government of the Provinces shall be as follows, namely,—of Ontario, the city of Toronto; of Quebec, the city of Quebec; of Nova Soctia, the city of Halifax; and of New Brunswick, the city of Fredericton.

Legislative Power

1.—Ontario

69. There shall be a Legislature for Ontario consisting of the Lieutenant-Governor and of one House, styled "the Legislative Assembly of Ontario."

70. The Legislative Assembly of Ontario shall be composed of 82 members, to be elected to represent the 82 electoral districts set forth in the first schedule to this Act.

2.—Quebec

71. There shall be a Legislature for Quebec consisting of the Lieutenant-Governor and of two Houses, styled "the Legislative Council of Quebec" and "the Legislative Assembly of Quebec".

72. The Legislative Council of Quebec shall be composed of 24 members, to be appointed by the Lieutenant-Governor, in the Queen's name, by instrument under the Great Seal of Quebec, one being appointed to represent each of the 24 electoral divisions of Lower Canada in this Act referred to, and each holding office for the term of his life, unless the Legislature of Quebec otherwise provides under the provisions of this Act.

73. The qualifications of the Legislative Councillors of Quebec shall be the same as those of the senators for Quebec.

74. The place of a Legislative Councillor of Quebec shall become vacant in the cases, *mutatis mutandis*, in which the place of senator becomes vacant.

75. When a vacancy happens in the Legislative Council of Quebec by resignation, death or otherwise, the Lieutenant-Governor, in the Queen's name, by instrument under the Great Seal of Quebec, shall appoint a fit and qualified person to fill the vacancy.

76. If any question arises respecting the qualification of a Legislative Councillor of Quebec, or a vacancy in the Legislative Council of Quebec, the same shall be heard and determined by the Legislative Council.

77. The Lieutenant-Governor may from time to time by instrument under the Great Seal of Quebec, appoint a member of the Legislative Council of Quebec to be Speaker thereof, and may remove him and appoint another in his stead.

78. Until the Legislature of Quebec otherwise provides, the presence of at least 10 members of the Legislative Council, including the Speaker, shall be necessary to constitute a meeting for the exercise of its powers.

79. Questions arising in the Legislative Council of Quebec shall be decided by a majority of voices, and the Speaker shall in all cases have a vote, and when the voices are equal the decision shall be deemed to be in the negative.

80. The Legislative Assembly of Quebec shall be composed of 65 members, to be elected to represent the 65 electoral divisions or districts of Lower Canada in this Act referred to, subject to alteration thereof by the Legislature of Quebec : Provided that it shall not be lawful to present to the Lieutenant-Governor of Quebec for assent any bill for altering the limits of any of the electoral divisions or districts mentioned in the second schedule to this Act, unless the second and third readings of such bill have been passed in the Legislative Assembly with the concurrence of the majority of the members representing all those electoral divisions or districts, and the assent sha l not be given to such bill unless an address has been presented by the Legislative Assembly to the Lieutenant-Governor stating that it has been so passed.

3.—Ontario and Quebec

81. The Legislatures of Ontario and Quebec respectively shall be called together not later than 6 months after the union.

82. The Leiutenant-Governor of Ontario and of Quebec shall from time to time, in the Queen's name, by instrument under the Great Seal of the Province, summon and call together the Legislative Assembly of the Province.

83. Until the Legislature of Ontario or of Quebec otherwise provides, a person accepting or holding in Ontario or in Quebec any office, commission or employment, permanent or temporary, at the nomination of the Lieutenant-Governor, to which an annual salary, or any fee, allowance, emolument or profit of any kind or amount whatever from the Province is attached, shall not be eligible as a member of the Legislative Assembly of the respective Province, nor shall he sit or vote as such ; but nothing in this section shall make ineligible any person being a member of the Executive Council of the respective Province, or holding any of the following offices, that is to say, the offices of Attorney-General, Secretary and Registrar of the Province, Treasurer of the Province, Commissioner of Crown Lands and Commissioner of Agriculture and Public Works, and in Quebec Solicitor-General, or shall disqualify him to sit or vote in the House for which he is elected, provided he is elected while holding such office.

84. Until the Legislatures of Ontario and Quebec respectively otherwise provide, all laws which at the union are in force in those Provinces respectively relative to the following matters, or any of them, namely,—the qualifications and disqualifications of person to be elected or to sit or vote as members of the Assembly of Canada, the qualifications or disqualifications of voters, the oaths to be taken by voters, the returning officers, their powers and duties, the proceedings at elections, the periods during which such elections may be continued ; and the trial of controverted elections and the proceedings inciden

thereto, the vacating of the seats of members and the issuing and execution of new writs in case of seats vacated otherwise then by dissolution,—shall respectively apply to elections of members to serve in the respective Legislative Assemblies of Ontario and Quebec.

Provided that, until the Legislature of Ontario otherwise provides at any election for a member of the Legislative Assembly of Ontario for the district of Algoma, in addition to persons qualified by the law of the Province of Canada to vote, every male British subject, aged 21 years or upwards, being a house-holder, shall have a vote.

85. Every Legislative Assembly of Ontario and every Legislative Assembly of Quebec shall continue for 4 years from the day of the return of the writs for choosing the same (subject nevertheless to either the Legislative Assembly of Ontario or the Legislative Assembly of Quebec being sooner dissolved by the Lieutenant-Governor of the Province), and no longer.

86. There shall be a session of the Legislature of Ontario and of that of Quebec once at least in every year, so that 12 months shall not intervene between the last sitting of the Legislature in each Province in one session and its first sitting in the next session.

87. The following provision of this Act respecting the House of Commons of Canada shall extend and apply to the Legislative Assemblies of Ontario and Quebec, that is to say,—the provisions relating to the election of a speaker originally and on vacancies, the duties of the Speaker, the absence of the Speaker, the quorum, and the mode of voting, as if those provisions were here re-enacted and made applicable in terms to each such Legislative Assembly.

4.—Nova Scotia and New Brunswick

88. The constitution of the Legislature of each of the Provinces of Nova Scotia and New Brunswick shall, subject to the provisions of this Act, continue as it exists at the union until altered under the authority of this Act; and the House of Assembly of New Brunswick existing at the passing of this Act shall, unless sooner dissolved, continue for the period for which it was elected.

5.—Ontario, Quebec and Nova Scotia

89. Each of the Lieutenant-Governors of Ontario, Quebec and Nova Scotia shall cause writs to be issued for the first election of members of the Legislative Assembly thereof in such form and by such person as he thinks fit, and at such time and addressed to such returning officer as the Governor-General directs, and so that the first election of member of Assembly for any electoral district or any sub-division thereof shall be held at the same time and at the same places as the election for a member to serve in the House of Commons of Canada for that electoral district.

6.—The four Provinces

90. The following provisions of this Act respecting the Parliament of Canada, namely,—the provisions relating to appropriation and tax bills, recommendation of money votes, the assent to bills, the disallowance of Acts, and the signification of pleasure on bills reserved,—shall extend and apply to the Legislatures of the several Provinces as if those provisions were here re-enacted and made applicable in terms to the respective Provinces and the Legislatures thereof, with the substitution of the Lieutenant-Governor of the Province for the Governor-General, of the Governor-General for the Queen and for a Secretary of State, of one year for 2 years, and of the Province for Canada.

VI.—DISTRIBUTION OF LEGISLATIVE POWERS

Powers of the Parliament

91. It shall be lawful for the Queen, by and with the advice and consent of the Senate and House of Commons, to make laws for the peace, order and good government of Canada, in relation to all matters not coming within the classes of subjects by this Act assigned exclusively to the Legislatures of the Provinces; and for greater certainty, but not so as to restrict the generality of the foregoing terms of this section, it is hereby declared that (notwithstanding anything in this Act) the exclusive legislative authority of the Parliament of Canada extend to all matters coming within the classes of subjects next hereinafter enumerated; that is to say:—

(1) The public debt and property.

(2) The regulation of trade and commerce.

(3) The raising of money by any mode or system of taxation.

(4) The borrowing of money on the public credit.

(5) Postal service.

(6) The census and statistics.

(7) Militia, military and naval service, and defence.

(8) The fixing of and providing for the salaries and allowances of civil and other officers of the Government of Canada.

(9) Beacons, buoys, lighthouses and Sable Island.

(10) Navigation and shipping.

(11) Quarantine and the establishment and maintenance of marine hospitals.

(12) Sea coast and inland fisheries.

(13) Ferries between a Province and any British or foreign country or between two Provinces.

(14) Currency and coinage.

(15) Banking, incorporation of banks, and the issue of paper money.

(16) Savings banks.

(17) Weights and measures.

(18) Bills of exchange and promissory notes.

(19) Interest.

(20) Legal tender.

(21) Bankruptcy and insolvency.

(22) Patents of invention and discovery.

(23) Copyrights.

(24) Indians, and lands reserved for the Indians.

(25) Naturalisation and aliens.

(26) Marriage and divorce.

(27) The criminal law, except the constitution of courts of criminal jurisdiction, but including the procedure in criminal matters.

(28) The establishment, maintenance and management of penitentiaries.

(29) Such classes of subjects as are expressly excepted in the enumeration of the classes of subjects by this Act assigned exclusively to the Legislatures of the Provinces.

And any matter coming within any of the classes of subjects enumerated in this section shall not be deemed to come within the class of matters of a local or private nature comprised in the enumeration of the classes of subjects by this Act assigned exclusively to the Legislatures of the Provinces.

Exclusive Powers of Provincial Legislatures

92. In each Province the Legislature may exclusively make laws in relation to matters coming within the classes of subject next hereinafter enumerated; that is to say :—

(1) The amendment from time to time, notwithstanding anything in this Act, of the constitution of the Province, except as regards the office of Lieutenant-Governor.

(2) Direct taxation within the Province in order to the raising of a revenue for provincial purposes.

(3) The borrowing of money on the sole credit of the Province.

(4) The establishment and tenure of provincial offices and the appointment and payment of provincial officers.

(5) The management and sale of the public lands belonging to the Province and of the timber and wood thereon.

(6) The establishment, maintenance and management of public and reformatory prisons in and for the Province.

(7) The establishment, maintenance and management of hospitals, asylums, charities and eleemosynary institutions in and for the Province, other than marine hospitals.

(8) Municipal institutions in the Province.

(9) Shop, saloon, tavern, auctioneer and other licences in order to the raising of a revenue for provincial, local or municipal purposes.

(10) Local works and undertakings other than such as are of the following classes :—

(*a*) Lines of steam or other ships, railways, canals, telegraphs and other works and undertakings connecting the Province with any other or others of the Provinces, or extending beyond the limits of the Province.

(*b*) Lines of steamships between the Province and any British or foreign country.

(*c*) Such works as, although wholly situate within the Province, are before or after their execution declared by the Parliament of Canada to be for the general advantage of Canada or for the advantage of two or more of the Provinces.

(11) The incorporation of companies with provincial objects.

(12) The solemnisation of marriage in the Province.

(13) Property and civil rights in the Province.

(14) The administration of justice in the Province, including the constitution, maintenance and organisation of provincial courts, both of civil and of criminal jurisdiction, and including procedure in civil matters in those courts.

(15) The imposition of punishment by fine, penalty or imprisonment for enforcing any law of the Province made in relation to any matter coming within any of the classes of subjects enumerated in this section.

(16) Generally all matters of a merely local or private nature in the Province.

Education

93. In and for each Province the Legislature may exclusively make laws in relation to education, subject and according to the following provisions :—

(1) Nothing in any such law shall prejudicially affect any right or privilege with respect to denominational schools which any class of persons have by law in the Province at the union.

(2) All the powers, privileges and duties at the union by law conferred and imposed in Upper Canada on the separate schools and school trustees of the Queen's Roman Catholics subjects shall be and the same are hereby extended to the dissentient schools of the Queen's Protestant and Roman Catholic subjects in Quebec.

(3) Where in any Province a system of separate or dissentient schools exists by law at the union or is thereafter established by the Legislature of the Province, an appeal shall lie to the Governor-General in Council from any act or decision of any provincial authority affecting any right or privilege of the Protestant or Roman Catholic minority of the Queen's subjects in relation to education.

(4) In case any such provincial law as from time to time seems to the Governor-General in Council requisite for the due execution of the provisions of this section is not made, or in case any decision of the Governor-General in Council on any appeal under this section is not duly executed by the proper provincial authority in that behalf, then and in every such case, and as far only as the circumstances of each case require, the Parliament of Canada may make remedial laws for the due execution of the provisions of this section and of any decision of the Governor-General in Council under this section.

Uniformity of Laws in Ontario, Nova Scotia and New Brunswick

94. Notwithstanding anything in this Act, the Parliament of Canada may make provision for the uniformity of all or any of the laws relative to property and civil rights in Ontario, Nova Scotia and New Brunswick, and of the procedure of all or any of the courts in those three Provinces, and from and after the passing of any Act in that behalf the power of the Parliament of Canada to make laws in relation to any matter comprised in any such Act shall, notwithstanding anything in this Act, be unrestricted ; but any Act of the Parliament of Canada making provision for such uniformity shall not have effect in any Province unless and until it is adopted and enacted as law by the Legislature thereof.

Agriculture and Immigration

95. In each Province the Legislature may make laws in relation to agriculture in the Province, and to immigration into the Province ; and it is hereby declared that the Parliament of Canada may from time to time make laws in relation to agriculture in all or any of the Provinces, and to immigration into all

or any of the Provinces ; and any law of the Legislature of a Province relative to agriculture or to immigration shall have effect in and for the Province as long and as far only as it is not repugnant to any Act of the Parliament of Canada.

VII.—JUDICATURE

96. The Governor-General shall appoint the judges of the superior, district and county courts in each Province, except those of the courts of probate in Nova Scotia and New Brunswick.

97. Until the laws relative to property and civil rights in Ontario, Nova Scotia and New Brunswick, and the procedure of the courts in those Provinces, are made uniform, the judges of the courts of those Provinces appointed by the Governor-General shall be selected from the respective bars of those Provinces.

98. The judges of the courts of Quebec shall be selected from the bar of that Province.

99. The judges of the superior courts shall hold office during good behaviour, but shall be removable by the Governor-General on address of the Senate and House of Commons.

100. The salaries, allowances and pensions of the judges of the superior, district and county courts (except the courts of probate in Nova Scotia and New Brunswick), and of the Admiralty courts in cases where the judges thereof are for the time being paid by salary, shall be fixed and provided by the Parliament of Canada.

101. The Parliament of Canada may, notwithstanding anything in this Act, from time to time provide for the constitution, maintenance and organisation of a General Court of Appeal for Canada, and for the establishment of any additional courts for the better administration of the laws of Canada.

VIII.—REVENUES ; DEBTS ; ASSETS ; TAXATION

102. All duties and revenues over which the respective Legislatures of Canada, Nova Scotia and New Brunswick before and at the union had and have power of appropriation, except such portions thereof as are by this Act reserved to the respective Legislatures of the Provinces, or are raised by them in accordance with the special powers conferred on them by this Act, shall form one Consolidated Revenue Fund, to be appropriated for the public service of Canada in the manner and subject to the charges in this Act provided.

103. The Consolidated Revenue Fund of Canada shall be permanently charged with the costs, charges and expenses incident to the collection, management and receipt thereof, and the same shall form the first charge thereon subject to be reviewed and audited in such manner as shall be ordered by the Governor-General in Council until the Parliament otherwise provides.

104. The annual interests of the public debts of the several Provinces of Canada, Nova Scotia and New Brunswick at the union shall form the second charge on the Consolidated Revenue Fund of Canada.

105. Unless altered by the Parliament of Canada, the salary of the Governor-General shall be £ 10,000 sterling money of the United Kingdom of Great Britain and Ireland, payable out of the Consolidated Revenue Fund of Canada, and the same shall form the third charge thereon.

106. Subject to the several payments by this Act charged on the Consolidated Revenue Fund of Canada, the same shall be appropriated by the Parliament of Canada for the public service.

107. All stocks, cash, banker's balances and securities for money belonging to each Province at the time of the union, except as in this Act mentioned, shall be the property of Canada, and shall be taken in reduction of the amount of the respective debts of the Provinces at the union.

108. The public works and property of each Province, enumerated in the third schedule to this Act, shall be the property of Canada.

109. All lands, mines, minerals and royalties belonging to the several Provinces of Canada, Nova Scotia and New Brunswick at the union, and all sums then due or payable for such lands, mines, minerals or royalties, shall belong to the several Provinces of Ontario, Quebec, Nova Scotia and New Brunswick in which the same are situate or arise, subject to any trusts existing in respect thereof, and to any interest other than that of the Province in the same.(1)

110. All assets connected with such portions of the public debt of each Province as are assumed by that Province shall belong to that Province.

111. Canada shall be liable for the debts and liabilities of each Province existing at the union.

112. Ontario and Quebec conjointly shall be liable to Canada for the amount (if any) by which the debt of the Province of Canada exceeds at the union 62,500,000 dollars, and shall be charged with interest at the rate of 5 per cent. per annum thereon.

113. The assets enumerated in the fourth schedule to this Act belonging at the union to the Province of Canada shall be the property of Ontario and Quebec conjointly.

114. Nova Scotia shall be liable to Canada for the amount (if any) by which its public debt exceeds at the union 8,000,000 dollars, and shall be charged with interest at the rate of 5 per cent. per annum thereon.

115. New Brunswick shall be liable to Canada for the amount (if any) by which its public debt exceeds at the union 7,000,000 dollars, and shall be charged with interest at the rate of 5 per cent. per annum thereon.

116. In case the public debts of Nova Scotia and New Brunswick do not at the union amount to 8,000,000 and 7,000,000 dollars respectively, they shall respectively receive by half-yearly payments in advance from the Government of Canada interest at 5 per cent. per annum on the difference between the actual amounts of their respective debts and such stipulated amounts.

117. The several Provinces shall retain all their respective public property not otherwise disposed of in this Act, subject to the right of Canada to assume any lands or public property required for fortifications or for the defence of the country.

118. (2)

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(1) "The British North America Act, 1930," placed the Provinces of Manitoba, British Columbia, Alberta and Saskatchewan in a position of equality with the other Provinces of Confederation with respect to the administration and control of their natural resources.

(2) Provisions substituted by those of "The British North America Act, 1907" ; see page 31.

119. New Brunswick shall receive by half-yearly payments in advance from Canada for the period of 10 years from the union an additional allowance of 63,000 dollars per annum ; but as long as the public debt of that Province remains under 7,000,000 dollars a deduction equal to the interest at 5 per cent. per annum on such deficiency shall be made from that allowance of 63,000 dollars.

120. All payments to be made under this Act, or in discharge of liabilities created under any Act of the Provinces of Canada, Nova Scotia and New Brunswick respectively, and assumed by Canada, shall, until the Parliament of Canada otherwise directs, be made in such form and manner as may from time to time be ordered by the Governor-General in Council.

121. All articles of the growth, produce or manufacture of any one of the Provinces shall, from and after the union, be admitted free into each of the other Provinces.

122. The customs and excise laws of each Province shall, subject to the provisons of this Act, continue in force until altered by the Parliament of Canada.

123. Where customs duties are, at the union, leviable on any goods, wares or merchandises in any two Provinces, those goods, wares and merchandises may, from and after the union, be imported from one of those Provinces into the other of them, on proof of payment of the customs duty leviable thereon in the Province of exportation, and on payment of such further amount (if any) of customs duty as is leviable thereon in the Province of importation.

124. Nothing in this Act shall affect the right of New Brunswick to levy the lumber dues provided in chapter 15 of title 3 of " The Revised Statutes of New Brunswick, " or in any Act amending that Act before or after the union and not increasing the amount of such dues ; but the lumber of any of the Provinces other than New Brunswick shall not be subject to such dues.

125. No lands or property belonging to Canada or any Province shall be liable to taxation.

126. Such portions of the duties and revenues over which the respective Legislatures of Canada, Nova Scotia and New Brunswick had before the union power of appropriation as are by this Act reserved to the respective Governments or Legislatures of the Provinces, and all duties and revenues raised by them in accordance with special powers conferred upon them by this Act, shall in each Province form one Consolidated Revenue Fund to be appropriated for the public service of the Province.

IX.—MISCELLANEOUS PROVISIONS

General

127. If any person being at the passing of this Act a member of the Legislative Council of Canada, Nova Scotia or New Brunswick, to whom a place in the Senate is offered, does not within 30 days thereafter, by writing under his hand addressed to the Governor-General of the Province of Canada or to

the Lieutenant-Governor of Nova Scotia or New Brunswick (as the case may be), accept the same, he shall be deemed to have declined the same; and any person who, being at the passing of this Act a member of the Legislative Council of Nova Scotia or New Brunswick, accepts a place in the Senate, shall thereby vacate his seat in such Legislative Council.

28. Every member of the Senate or House of Commons of Canada shall before taking his seat therein take and subscribe before the Governor-General or some person authorised by him, and every member of a Legislative Council or Legislative Assembly of any Province shall before taking his seat therein take and subscribe before the Lieutenant-Governor of the Province or some person authorised by him, the oath of allegiance contained in the fifth schedule to this Act; and every member of the Senate of Canada and every member of the Legislative Council of Quebec shall also, before taking his seat therein, take and subscribe before the Governor-General, or some person authorised by him, the declaration of qualification contained in the same schedule.

129. Except as otherwise provided by this Act, all laws in force in Canada, Nova Scotia or New Brunswick at the union, and all courts of civil and criminal jurisdiction, and all legal commissions, powers and authorities, and all officers, judicial, administrative and ministerial, existing therein at the union, shall continue in Ontario, Quebec, Nova Scotia and New Brunswick respectively, as if the union had not been made; subject nevertheless (except with respect to such as are enacted by or exist under Acts of the Parliament of Great Britain or of the Parliament of the United Kingdom of Great Britain and Ireland) to be repealed, abolished or altered by the Parliament of Canada, or by the Legislature of the respective Province, according to the authority of the Parliament or of that Legislature under this Act.

130. Until the Parliament of Canada otherwise provides, all officers of the several Provinces having duties to discharge in relation to matters other than those coming within the classes of subjects by this Act assigned exclusively to the Legislatures of the Provinces shall be officers of Canada, and shall continue to discharge the duties of their respective offices under the same liabilities, responsibilities and penalties as if the union had not been made.

131. Until the Parliament of Canada otherwise provides, the Governor-General in Council may from time to time appoint such officers as the Governor-General in Council deems necessary or proper for the effectual execution of this Act.

132. The Parliament and Government of Canada shall have all powers necessary or proper for performing the obligations of Canada or of any Province thereof, as part of the British Empire, towards foreign countries, arising under treaties between the Empire and such foreign countries.

133. Either the English or the French language may be used by any person in the debates of the Houses of the Parliament of Canada and of the Houses of the Legislature of Quebec; and both those languages shall be used in the respective records and journals of those Houses; and either of those languages may be used by any person or in any pleading or process in or issuing from any court of Canada established under this Act, and in or from all or any of the courts of Quebec.

The Acts of the Parliament of Canada and of the Legislature of Quebec shall be printed and published in both those languages.

Ontario and Quebec

134. Until the Legislature of Ontario or of Quebec otherwise provides, the Lieutenant-Governors of Ontario and Quebec may each appoint under the Great Seal of the Province the following officers, to hold office during pleasure, that is to say, the Attorney-General, the Secretary and Registrar of the Province, the Treasurer of the Province, the Commissioner of Crown Lands, and the Commissioner of Agriculture and Public Works, and in the case of Quebec the Solicitor-General, and may, by order of the Lieutenant-Governor in Council, from time to time prescribe the duties of those officers, and of the several departments over which they shall preside or to which they shall belong, and of the officers and clerks thereof, and may also appoint other and additional officers to hold office during pleasure, and may from time to time prescribe the duties of those officers, and of the several departments over which they shall preside or to which they shall belong, and of the officers and clerks thereof.

135. Until the Legislature of Ontario or Quebec otherwise provides, all rights, powers, duties, functions, responsibilities or authorities at the passing of this Act vested in or imposed on the Attorney-General, Solicitor-General, Secretary and Registrar of the Province of Canada, Minister of Finance, Commissioner of Crown Lands, Commissioner of Public Works, and Minister of Agriculture and Receiver-General, by any law, statute or ordinance of Upper Canada, Lower Canada or Canada, and not repugnant to this Act, shall be vested in or imposed on any officer to be appointed by the Lieutenant-Governor for the discharge of the same or any of them; and the Commissioner of Agriculture and Public Works shall perform the duties and functions of the office of Minister of Agriculture at the passing of this Act imposed by the law of the Province of Canada, as well as those of the Commissioner of Public Works.

136. Until altered by the Lieutenant-Governor in Council, the Great Seals of Ontario and Quebec respectively shall be the same, or of the same design, as those used in the Provinces of Upper Canada and Lower Canada respectively before their union as the Province of Canada.

137. The words "and from thence to the end of the then next ensuing session of the Legislature," or words to the same effect, used in any temporary Act of the Province of Canada not expired before the union, shall be construed to extend and apply to the next session of the Parliament of Canada if the subject-matter of the Act is within the powers of the same as defined by this Act, or to the next sessions of the Legislatures of Ontario and Quebec respectively if the subject-matter of the Act is within the powers of the same as defined by this Act.

138. From and after the union the use of the words "Upper Canada" instead of "Ontario," or "Lower Canada" instead of "Quebec," in any deed, writ, process, pleading, document, matter or thing, shall not invalidate the same.

139. Any proclamation under the Great Seal of the Province of Canada issued before the union to take effect at a time which is subsequent to the union, whether relating to that Province, or to Upper Canada, or to Lower Canada, and the several matters and things therein proclaimed, shall be and continue of like force and effect as if the union had not been made.

140. Any proclamation which is authorised by any Act of the Legislature of the Province of Canada to be issued under the Great Seal of the Province of Canada, whether relating to that Province, or to Upper Canada, or to Lower Canada, and which is not issued before the union, may be issued by the

Lieutenant-Governor of Ontario or of Quebec, as its subject-matter requires under the Great Seal thereof; and from and after the issue of such proclamation the same and the several matters and things therein proclaimed shall be and continue of the like force and effect in Ontario or Quebec as if the union had not been made.

141. The penitentiary of the Province of Canada shall, until the Parliament of Canada otherwise provides, be and continue the penitentiary of Ontario and of Quebec.

142. The division and adjustment of the debts, credits, liabilities, properties and assets of Upper Canada and Lower Canada shall be referred to the arbitrament of three arbitrators, one chosen by the Government of Ontario, one by the Government of Quebec, and one by the Government of Canada; and the selection of the arbitrators shall not be made until the Parliament of Canada and the Legislatures of Ontario and Quebec have met; and the arbitrator chosen by the Government of Canada shall not be a resident either in Ontario or in Quebec.

143. The Governor-General in Council may from time to time order that such and so many of the records, books and documents of the Province of Canada as he thinks fit shall be appropriated and delivered either to Ontario or to Quebec, and the same shall thenceforth be the property of that Province; and any copy thereof or extract therefrom, duly certified by the officer having charge of the original thereof, shall be admitted as evidence.

144. The Lieutenant-Governor of Quebec may from time to time, by proclamation under the Great Seal of the Province, to take effect from a day to be appointed there in, constitute townships in those parts of the Province of Quebec in which townships are not then already constituted, and fix the metes and bounds thereof.

X.—INTERCOLONIAL RAILWAY

145. Inasmuch as the Provinces of Canada, Nova Scotia and New Brunswick have joined in a declaration that the construction of the Intercolonial Railway is essential to the consolidation of the union of British North America, and to the assent thereto of Nova Scotia and New Brunswick, and have consequently agreed that provision should be made for its immediate construction by the Government of Canada: Therefore, in order to give effect to that agreement, it shall be the duty of the Government and Parliament of Canada to provide for the commencement, within 6 months after the union, of a railway connecting the river St. Lawrence with the city of Halifax in Nova Scotia, and for the construction thereof without intermission and the completion thereof with all practicable speed.

XI.—ADMISSION OF OTHER COLONIES

146. It shall be lawful for the Queen, by and with the advice of Her Majesty's most Honourable Privy Council, on addresses from the Houses of the Parliament of Canada, and from the Houses of the respective Legislatures of the Colonies or Provinces of Newfoundland, Prince Edward Island, (1) and British Columbia, (2) to admit those Colonies or Provinces, or any of them, into the union, and on address from the Houses of the Parliament of Canada to

(1) By Imperial Order in Council of June 26, 1873 (*State Papers*, Vol. LXVII, page 1300), Prince Edward Island was admitted into the Dominion as from July 1, 1873.

(2) By Imperial Order in Council of May 16, 1871 (*State Papers*, Vol. LXI, page 1344), British Columbia was admitted into the Dominion as from July 20, 1871.

admit Rupert's Land (3) and the North-Western Territory, (3) or either of them, into the union, on such terms and conditions in each case as are in the addresses expressed and as the Queen thinks fit to approve, subject to the provisions of this Act ; and the provisions of any Order in Council in that behalf shall have effect as if they had been enacted by the Parliament of the United Kingdom of Great Britain and Ireland.

147. In case of the admission of Newfoundland and Prince Edward Island, or either of them, each shall be entitled to a representation in the Senate of Canada of 4(1) members, and (notwithstanding anything in this Act) in case of the admission of Newfoundland the normal number of senators shall be 102 and their maximum number shall be 110 ; but Prince Edward Island when admitted shall be deemed to be comprised in the third of the three divisions into which Canada is, in relation to the constitution of the Senate, divided by this Act, and accordingly, after the admission of Prince Edward Island, whether Newfoundland is admitted or not, the representation of Nova Scotia and New Brunswick in the Senate shall, as vacancies occur, be reduced from 12 to 10 members respectively, and the representation of each of those Provinces shall not be increased at any time beyond 10, except under the provisions of this Act for the appointment of 3 or 6 additional senators under the direction of the Queen.

SCHEDULES

First Schedule

ELECTORAL DISTRICTS OF ONTARIO

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Second Schedule

ELECTORAL DISTRICTS OF QUEBEC SPECIALLY FIXED

* * *

Third Schedule

PROVINCIAL PUBLIC WORKS AND PROPERTY TO BE THE PROPERTY OF CANADA

* * *

Fourth Schedule

ASSETS TO BE THE PROPERTY OF ONTARIO AND QUEBEC CONJOINTLY

* * *

Fifth Schedule

OATH OF ALLEGIANCE

I, A. B., do swear that I will be faithful and bear true allegiance to Her Majesty Queen Victoria.

Note.—The Name of the King or Queen of the United Kingdom of Great Britain and Ireland for the time being is to be substituted from time to time, with proper terms of reference thereto.

DECLARATION OF QUALIFICATION

I, A. B., do declare and testify that I am by law duly qualified to be appointed a member of the Senate of Canada [or as the case may be] and that I am legally or equitably seised as of freehold for my own use and benefit of

(3) By Imperial Order in Council of June 23, 1870 (*State Papers*, Vol. LX, page 406), Rupert's Land and the North-Western Territory were admitted into the Dominion as from July 15, 1870.

(1) Increased to 6 in the case of Newfoundland by section 1 (1) (vi) of "The British North America Act, 1915."

lands or tenements held in free and common socage [or seised or possessed for my own use and benefit of lands or tenements held in franc-alleu or in roture (as the case may be)] in the Province of Nova Scotia [or as the case may be] of the value of 4,000 dollars over and above all rents, dues, debts, mortgages, charges and incumbrances due or payable out of or charged on or affecting the same, and that I have not collusively or colourably obtained a title to or become possessed of the said lands and tenements or any part thereof for the purpose of enabling me to become a member of the Senate of Canada [or as the case may be], and that my real and personal property are together worth 4,000 dollars over and above my debts and liabilities.

2.—British North America Act, 1871.

[34 & 35 Vict., C. 28.—June 29, 1871.]

Whereas doubts have been entertained respecting the powers of the Parliament of Canada to establish Provinces in territories admitted, or which may hereafter be admitted, into the Dominion of Canada, and to provide for the representation of such Provinces in the said Parliament, and it is expedient to remove such doubts, and to vest such powers in the said Parliament:

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons in this present Parliament assembled, and by the authority of the same, as follows:

1. This Act may be cited for all purposes as "The British North America Act, 1871."

2. The Parliament of Canada may from time to time establish new Provinces in any territories forming for the time being part of the Dominion of Canada, but not included in any Province thereof, and may, at the time of such establishment, make provision for the constitution and administration of any such Province, and for the passing of laws for the peace, order and good government of such Province, and for its representation in the said Parliament.

3. The Parliament of Canada may from time to time, with the consent of the Legislature of any Province of the said Dominion, increase, diminish or otherwise alter the limits of such Province, upon such terms and conditions as may be agreed to by the said Legislature, and may, with the like consent, make provision respecting the effect and operation of any such increase or diminution or alteration of territory in relation to any Province affected thereby.

4. The Parliament of Canada may from time to time make provision for administration, peace, order and good government of any territory not for the time being included in any Province.

5. The following Acts passed by the said Parliament of Canada and instituted respectively—

"An Act for the temporary government of Rupert's Land and the North-Western Territory when united with Canada;"(1) and

"An Act to amend and continue the Act 32 and 33 Victoria, chapter 3, and to establish and provide for the Government of the Province of Manitoba,"(2) shall be and be deemed to have been valid and effectual for all purposes whatsoever from the date at which they respectively received the assent in the Queen's name of the Governor-General of the said Dominion of Canada.

6. Except as provided by the third section of this Act, it shall not be competent for the Parliament of Canada to alter the provisions of the last-mentioned Act of the said Parliament in so far as it relates to the Province of

(1) *State Papers*, Vol. LXI, page 1332.

(2) *Ibid.*, Vol. LXI, page 1335.

Manitoba or of any other Act hereafter establishing new Provinces in the said Dominion, subject always to the right of the Legislature of the Province of Manitoba to alter from time to time the provisions of any law respecting the qualification of electors and members of the Legislative Assembly and to make laws respecting elections in the said Province.

3.—British North America Act, 1886.

[49 & 50 Vict., C. 35.—June 25, 1886.]

Whereas it is expedient to empower the Parliament of Canada to provide for the representation in the Senate and House of Commons of Canada, or either of them, of any territory which for the time being forms part of the Dominion of Canada, but is not included in any Province :

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

1. The Parliament of Canada may from time to time make provision for the representation in the Senate and House of Commons of Canada, or in either of them, of any territories which for the time being form part of the Dominion of Canada, but are not included in any Province thereof.

2. Any Act passed by the Parliament of Canada before the passing of this Act for the purpose mentioned in this Act shall, if not disallowed by the Queen, be, and shall be deemed to have been, valid and effectual from the date at which it received the assent, in Her Majesty's name, of the Governor-General of Canada.

It is hereby declared that any Act passed by the Parliament of Canada whether before or after the passing of this Act, for the purpose mentioned in this Act or in " The British North America Act, 1871,"(1) has effect, notwithstanding anything in " The British North America Act, 1867," (2 and the number of senators or the number of members of the House of Commons specified in the last-mentioned Act is increased by the number of senators or of members, as the case may be, provided by any such Act of the Parliament of Canada for the representation of any Provinces or territories of Canada.

3. This Act may be cited as " The British North America Act, 1886."

This Act and " The British North America Act, 1867," and " The British North America Act, 1871," shall be construed together, and may be cited together as " The British North America Acts, 1867 to 1886."

4.—British North America Act, 1907

[7 Edw. VII, C 11.—August 9, 1907.]

Whereas an address has been presented to His Majesty by the Senate and Commons of Canada in the terms set forth in the schedule to this Act :

Be it therefore enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :—

1. (1) The following grants shall be made yearly by Canada to every Province, which at the commencement of this Act is a Province of the Dominion, for its local purposes and the support of its Government and Legislature :—

(a) A fixed grant—

where the population of the Province is under 150,000, of 100,000 dollars ;

(1) Page 30. (2) Page 8.

where the population of the Province is 150,000, but does not exceed 200,000, of 150,000 dollars ;

where the population of the Province is 200,000, but does not exceed 400,000, of 180,000 dollars ;

where the population of the Province is 400,000, but does not exceed 800,000, of 190,000 dollars ;

where the population of the Province is 800,000, but does not exceed 1,500,000 of 220,000 dollars ;

where the population of the Province exceeds 1,500,000, of 240,000 dollars and

(b) subject to the special provisions of this Act as to the Provinces of British Columbia and Prince Edward Island, a grant at the rate of 80 cents, per head of the population of the Province up to the number of 2,500,000, and at the rate of 60 cents, per head of so much of the population as exceeds that number.

(2) An additional grant of 100,000 dollars shall be made yearly to the Province of British Columbia for a period of 10 years from the commencement of this Act.

(3) The population of a Province shall be ascertained from time to time in the case of the Provinces of Manitoba, Saskatchewan and Alberta respectively by the last quinquennial census or statutory estimate of population made under the Acts establishing those Provinces or any other Act of the Parliament of Canada making provision for the purpose, and in the case of any other Province by the last decennial census for the time being.

(4) The grants payable under this Act shall be paid half-yearly in advance to each Province.

(5) The grants payable under this Act shall be substituted for the grants or subsidies (in this Act referred to as " existing grants ") payable for the like purposes at the commencement of this Act to the several Provinces of the Dominion under the provisions of section 118 of " The British North America Act, 1867," (1) or of any Order in Council establishing a Province, or of any Act of the Parliament of Canada containing directions for the payment of any such grant or subsidy, and those provisions shall cease to have effect.

(6) The Government of Canada shall have the same power of deducting sums charged against a Province on account of the interest on public debt in the case of the grant payable under this Act to the Province as they have in the case of the existing grant.

(7) Nothing in this Act shall affect the obligation of the Government of Canada to pay to any Province any grant which is payable to that Province, other than the existing grant for which the grant under this Act is substituted.

(8) In the case of the Provinces of British Columbia and Prince Edward Island the amount paid on account of the grant payable per head of the population to the Provinces under this Act shall not at any time be less than the amount of the corresponding grant payable at the commencement of this Act ; and if it is found on any decennial census that the population of the Province has decreased since the last decennial census, the amount paid on account of the grant shall not be decreased below the amount then payable, notwithstanding the decrease of the population.

2. This Act may be cited as " The British North America Act, 1907," and shall take effect as from the 1st day of July, 1907.

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(1) Page 8.

SCHEDULE

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5. –Letters Patent, 1934 (as amended 1935).

George V, by the Grace of God of Great Britain, Ireland and the British Dominions beyond the Seas King, Defender of the Faith, Emperor of India; To all to whom these presents shall come, Greeting:

Whereas by certain Letters Patent under the Great Seal bearing date at Westminster the 15th day of June, 1905, (1) *His late Majesty King Edward VII. did constitute, order and declare that there should be a Governor-General in and over our Dominion of Canada, and that the person filling the said office of Governor-General should be from time to time appointed by Commission under the Royal Sign Manual and Signet:*

And whereas it is our will and pleasure to revoke the said Letters Patent, and to substitute other provisions in place thereof:

Now therefore we do by these presents revoke and determine the said recited Letters Patent, and everything therein contained, but without prejudice to anything lawfully done thereunder.

And we do declare our will and pleasure as follows:

1. We do hereby constitute, order and declare that there shall be a Governor-General and Commander-in Chief in and over our Dominion of Canada (hereinafter called "our said Dominion"), and appointments to the said office shall be made by Commission under our Sign Manual and Signet.

And we do hereby authorise and command our said Governor-General and Commander-in Chief (hereinafter called "our said Governor-General") to do and execute, in due manner, all things that shall belong to his said office, and to the trust we have reposed in him, according to the several powers and authorities granted or appointed him by virtue of "The British North America Act, 1867,"(2) and of these present Letters Patent and of such Commission as may be issued to him under our Sign Manual and Signet, and according to such Instructions as may from time to time be given to him under our Sign Manual and Signet and to such laws as are or shall hereafter be in force in our said Dominion.

2. And we do hereby authorise and empower our said Governor-General to keep and use the Great Seal of our said Dominion for sealing all things whatsoever that shall pass the said Great Seal.

3. And we do further authorise and empower our said Governor-General to constitute and appoint, in our name and on our behalf, all such judges, commissioners, justices of the peace, and other necessary officers and Ministers of our said Dominion, as may be lawfully constituted or appointed by us.

4. And we do further authorise and empower our said Governor-General, so far as we lawfully may, upon sufficient cause to him appearing, to remove from his office, or to suspend from the exercise of the same, any person exercising any office within our said Dominion, under or by virtue of any Commission or warrant granted, or which may be granted, by us in our name or under our authority.

5. And we do further authorise and empower our said Governor-General to exercise all powers lawfully belonging to us in respect of the summoning, proroguing or dissolving the Parliament of our said Dominion.

(1) Statutory Rules and Orders, 1905, Part II, page 1440.

(2) Page 8.

6. And whereas by " The British North America Act, 1867," it is amongst other things enacted that it shall be lawful for us, if we think fit, to authorise the Governor-General of our Dominion of Canada to appoint any person or persons, jointly or severally, to be his deputy or deputies within any part or parts of our said Dominion, and in that capacity to exercise, during the pleasure of our said Governor-General, such of the powers, authorities and functions of our said Governor-General as he may deem it necessary or expedient to assign to such deputy or deputies, subject to any limitations or directions from time to time expressed or given by us : Now we do hereby authorise and empower our said Governor-General, subject to such limitations and directions as aforesaid, to appoint any person or persons, jointly or severally, to be his deputy or deputies within any part or parts of our said Dominion of Canada, and in that capacity to exercise, during his pleasure, such of his powers, functions, and authorities, as he may deem it necessary or expedient to assign to him or them : Provided always, that the appointment of such a deputy or deputies shall not affect the exercise of any such power, authority or function by our said Governor-General in person.

7. And we do hereby declare our pleasure to be that, in the event of the death, incapacity, removal or absence of our said Governor-General out of our said Dominion, all and every the powers and authorities herein granted to him shall, until our further pleasure is signified therein, be vested in such person as may be appointed by us under our Sign Manual and Signet to be our Lieutenant-Governor of our said Dominion ; or if there shall be no such Lieutenant-Governor in our said Dominion then in such person or persons as may be appointed by us under our Sign Manual and Signet to administer the Government of the same ; and in case there shall be no person or persons within our said Dominion so appointed by us, then in our Chief Justice for the time being of the Supreme Court of our said Dominion, or in case of the death, incapacity removal or absence out of our said Dominion of our said Chief Justice for the time being, then in the senior judge for the time being of our said Supreme Court then residing in our said Dominion and not being under incapacity.

Provided always, that the said senior judge shall act in the administration of the Government only if and when our said Chief Justice shall not be present within our said Dominion and capable of administering the Government.

Provided further that no such powers or authorities shall vest in such Lieutenant-Governor, or such other person or persons, until he or they shall have taken the oaths appointed to be taken by the Governor-General of our said Dominion, and in the manner provided by the Instructions accompanying these our Letters Patent.

7A. Whenever and so often as the Governor-General shall be temporarily absent from the Dominion, with our permission, for the purpose of visiting some neighbouring State or territory, for a period not exceeding one month, then and in every such case the Governor-General may continue to exercise all and every the powers vested in him as fully as if he were residing within the Dominion, including the power to appoint a deputy or deputies as provided in the 6th clause of these our Letters Patent.

8-10. [Identical *mutatis mutandis*, with the same parts of the Letters Patent in respect of Autralia : see *infra*.]

In witness whereof we have caused these our Letters to be made Patent. Witness ourself at Westminster, the 23rd day of March, in the 21st year of our reign.

By warrant under the King's Sign Manual.

SCHUSTER.

THE COMMONWEALTH OF AUSTRALIA

Area : 2,974,581 *sq. miles.* *Population* : 6,629,839.

The Commonwealth of Australia was created by a Constitution passed by the Imperial Parliament, in the theory and practice of the time the sole Constituent Assembly of the British Empire, in 1900. Prior to the passing of that Act British Australia consisted of the British provinces of New South Wales, Tasmania, Victoria, Western Australia, South Australia and Queensland. Each of these had its separate Legislature, derived from Acts of the Imperial Parliament ; and in order to appreciate the elements of the present Australian Constitution, it is necessary to note the earlier Constitutions of these separate Colonies.

NEW SOUTH WALES : By an Act of 1823 legislative power was vested in a nominated Council. By an Act of 1842 (5 & 6 Vic., c. 76) representative government was introduced in an unusual form by the creation of a Council two-thirds of which was elected and one-third nominated. In 1850 (13 and 14 Vic., c. 59) this Legislature was allowed to alter its constitution by substituting two Houses for one. Responsible government was then created.

TASMANIA : A nominated Legislature was created in 1825 under the authority of the Imperial Act of 1923. In 1851 a Council was set up, two-thirds of which was elected and one-third nominated. Responsible government was created in 1855 with a Legislature of two Houses with an executive responsible to it.

VICTORIA : Until 1850 Victoria was part of the one administrative area with New South Wales. When in that year responsible government was set up in New South Wales, a similar government was set up in Victoria with a two Chamber Parliament.

QUEENSLAND : This Colony was also part of New South Wales, and so remained until 1859, when, by Imperial Act, it undertook the responsibility of its own government under a two Chamber Constitution.

SOUTH AUSTRALIA : This Colony originated in 1834 as an experiment in free settlement by a Joint Stock Company. It was governed by a nominated Council from 1836 to 1851. Under an Act of 1850 the government was entrusted to a Council of 24 members, two-thirds of which was elected and one-third of which was nominated. In 1855 it undertook its own government with a Parliament of two Chambers.

WESTERN AUSTRALIA : This Colony was governed by a nominated Council until 1868. In 1870 (under the Act of 1850) two-thirds of this Council was elected, the remaining one-third continuing to be nominated. In 1889 this Council passed an Act establishing a Constitution of two Chambers with responsible government. This Act was confirmed by an Imperial Act of 1890.

During the latter half of the 19th century, therefore, each of these separate Colonies continued to develop its own policy in regard to political and economic matters. There being no danger of invasion, one of the strongest

motives towards Federation was lacking. Nevertheless, the absence of a common fiscal policy led to grave inconveniences, and a strong movement came into being for the creation of a Central Federal Government and a united Federal Constitution. Stubborn trade jealousies that had developed between the Colonies had, however, first to be overcome.

As early as 1846 Mr. E. Deas Thomson, Colonial Secretary, New South Wales, recognised the need for some general control for inter-colonial legislation. The following year Lord Grey proposed a scheme for a Federal Constitution. It was also proposed, apart from this, that a Governor-General for Australia should be appointed, who should call an Australian General Assembly to consist of the Governor-General and a House of Delegates elected by the different Colonial Legislatures. There was, however, considerable opposition to these proposals; and the conequence was, as has been seen, that the *Australian Government Act* of 1850, under the authority of which the several Legislatures had been created, made no provision for a Central Legislature.

Influences from without having failed to secure union, it remained for a movement towards union to arise from the needs of the different Legislatures themselves. The first move came when, under an Imperial Act of 1885, a Federal Council was set up to which any Colony could, if they so wished, send delegates: The proceedings of this Council were mainly deliberative, and advisory. As New South Wales and New Zealand declined to take any interest in the Council, these proceedings carried very little authority in the country. But in 1889 an occasion arose on, significantly enough, a question of defence, that first brought the question of union to the forefront.

In that year a report was presented to the Council by a Major-General Edwards on the defences of Australia. With this report before him, Sir Henry Parkes, the Premier of New South Wales, addressed the Premiers of the other Colonies, urging the necessity of a Federal Union in matters of defence, with the result that a Conference was held at Melbourne of representatives from each of the Colonies; and at this Conference it was unanimously decided by the delegates to recommend to their respective Legislatures that representatives be appointed to a National Australian Convention empowered to draft a Federal Constitution.

When this Constituent Convention met at Sydney in March, 1891, it sat with open doors, and committees were appointed for the drafting of the Constitution. Sir Henry Parkes was elected President, and he moved a series of resolutions, which were finally adopted in the following form:—

(*a*) The powers and rights of existing Colonies to remain intact, excepting as regards any such powers as it may be necessary to hand over to the Federal Government.

(*b*) No alterations to be made in the States without the consent of the Legislatures of such States as well as of the Federal Parliament.

(*c*) Trade between the federated Colonies to be absolutely free.

(*d*) Power to impose Customs and Excise duties to be vested in the Federal Government and Parliament.

(*e*) Military and Naval defence forces to be under one command.

(*f*) The Federal Constitution to make provision to enable each State to make amendments in its Constitution if necessary for the purposes of federation.

All these resolutions were referred to the Committee on constitutional machinery, of which Sir Samuel Griffith, the Premier of Queensland, was Chairman. When the Committee reported to the Convention, the draft Bill was debated, and, with a few alterations, adopted in its entirety on the 9th April. The Convention, having then completed the work for which it had been called, was formally dissolved.

The Constitution, on adoption by the Convention, was returned to the Legislatures of the different Colonies. There it was received with very little interest, and indeed was received with very little interest by the people at large. The impulse, however, had been given ; and an Australian Federal Union was formed with numerous branches in the Colonies to bring the matter before the public attention. It was felt, apparently, that unless the question of union could be pressed forward by the people themselves, it would be unlikely to receive any cordial support in the several Legislatures ; and accordingly a public Convention was held in 1894 in the Colony of Victoria, at which the cause of the Federation was strongly argued. Yet it was not until 1895 that a meeting of Premiers was called by Mr. Reid, Premier of New South Wales. At this meeting it was agreed that each of the six Colonies should be invited to pass a Bill enabling the people of each Colony to elect ten persons to represent them on a Constituent Convention, the constitution adopted by such a Convention to be submitted directly to the people for approval by means of a referendum.

During the following year enabling Acts were passed by New South Wales, Victoria, Tasmania, and South Australia, but the delegates for Western Australia were chosen by the Colonial Legislature. Queensland, however, took no part in these proceedings.

The Constituent Convention so elected met in Adelaide on the 23rd March, 1897. It drafted a Constitution Bill for the consideration of the respective Legislatures, and adjourned until the 2nd December in order to be able to receive suggestions from these Legislatures. The Convention then reassembled at Sydney, and re-debated the Bill in the light of these suggestions. On this occasion it was announced that Queensland now desired to enter the suggested union, and, in order to give Queensland an opportunity of considering the Bill, the convention again adjourned.

The Convention re-assembled for its third and final session in Melbourne on the 20th January, 1898. Queensland was still unrepresented ; but, in spite of this, the draft Bill was again debated, and was finally adopted on the 16th March. It was then sent back to the various Colonies for submission to the people by referendum.

In Victoria, South Australia and Tasmania the proposed Constitution was readily accepted. Western Australia, however, refrained from taking action. The enabling Act of that Colony had provided for joining a Federation only in the event of New South Wales doing so, and in New South Wales considerable difficulties had arisen. Strong exception was taken there to several provisions of the Constitution as drafted, and though, when it was put to a referendum, 71,595 voted for it and 66,228 against , the majority in favour fell far short of that fixed by the Act of 1897, under which the referendum was held. This referendum was followed a few weeks later by a general section, at which the question of federation was again the issue. In the Parliament which was convened as a result of this election, the matter was

again discussed, and the Premier was empowered to convene another Conference with a request to the other Colonies to consent to a re-consideration of the objectionable provisions.

This course was agreed to by the other Colonies, with the result that a Conference of Premiers met in Melbourne in January, 1899. At this Conference Queensland was now for the first time represented. A compromise was arranged. The main principles of the Constitution remained as before, but certain changes were made to suit the case of New South Wales.

The Constitution was thereupon once again referred to the people in each of the Colonies. Victoria, South Australia and Tasmania accepted as before ; and, after some opposition, New South Wales and Queensland also accepted.

None of the Colonial Legislatures being sovereign, they had not the power themselves to adopt the Constitution so agreed and accepted by the people. The constitution had, therefore, to be referred to the Imperial Parliament, and a delegation was appointed to proceed to London to explain its provisions. The result was that a Bill was presented in the British Parliament, which became law on the 9th July, 1900. Western Australia had by this time decided, by a referendum held on April 27th, to enter the Federation. Under a Royal Proclamation of the 17th September, the Constitution came into operation on the 1st January, 1901 ; creating a Federation under the name of the Commonwealth of Australia.

As in all Federal Constitutions, the chief problem was to define the exact relation between the Federal Parliament and the State Parliaments. In coming to a decision upon this question the Constituent Convention had before it the example of Canada, and this example led inevitably to the Constitution of the United States, from which the Canadian Constitution builders had to some extent reacted. Under the Canadian Constitution specific powers had been assigned to the Provinces and the residuary powers left to the Federal Parliament, and this had been a reaction in Canada from the provisions in the Constitution of the United States, where specific powers had been assigned to Congress and residuary powers left to the States. In Canada it had been thought that the many controversies which had arisen respecting " State rights " had come into being because of this, and therefore in the Canadian Constitution this procedure had been reversed.

The Australian Constituent Convention had, therefore, re-examined the entire question, with both examples before it. As a result of that examination it had come to the conclusion that the difficulties which had arisen respecting " State rights " in the United States were the result, not of the principle of distribution, but of the fewness of the specific powers assigned and of the limitations with which these powers had been beset. It was felt, accordingly, that were these difficulties removed, the United States example would lead to a greater simplicity and efficiency than the Canadian example. Consequently, the principle of the United States Constitution as to this matter was adopted. In the Australian Constitution, therefore, specific powers were assigned to the Federal Parliament and residuary powers left to the Constituent States.

CONSTITUTION

OF

THE COMMONWEALTH OF AUSTRALIA

1. Act of the Imperial Parliament to constitute the Commonwealth.—July 9, 1900.

Text in *State Papers*, Vol. XCII, page 1256.

Amendments

ACTS OF THE COMMONWEALTH PARLIAMENT :

April 3, 1907 . .	Text in *Acts of the Parliament of the Commonwealth of Australia*, 1901-1935, Vol. I, page 94.
August 6, 1910 . .	Text in *Acts of the Parliament of the Commonwealth of Australia*, 1901-1935, Vol. I, page 95.
February 13, 1929 .	Text in *Acts of the Parliament of the Commonwealth of Australia*, 1901-1935, Vol. I page 95.

2. Letters Patent constitution the Office of Governor-General and Commander-in-Chief. Westminster, October 29, 1900.

Text in *Statutory Rules and Orders* revised to December 31, 1903, Vol. I, Australia, page 2.

LETTERS PATENT :

Westminster, December 15, 1920. Text in *Statutory Rules and Orders'* 1920, Vol. II, page 1566.

3. Royal Instructions to the Governor-General and Commander in-Chief. St. James's October 29, 1900.

Amendment

ADDITIONAL INSTRUCTIONS :

St. James's, August 11, 1902.

St. James's, December, 15, 1920.

1. Act of Parliament, 1900

(as amended 1907, 1910. and 1929).

[63 & 64 Vict., c. 12—July 9, 1900.]

Whereas the people of New South Wales, Victoria, South Australia, Queensland, and Tasmania, humbly relying on the blessing of Almighty God, have agreed to unite in one indissoluble Federal Commonwealth under the Crown of the United Kingdom of Great Britain and Ireland, and under the constitution hereby established.

And whereas it is expedient to provide for the admission into the Commonwealth of other Australian Colonies and possessions of the Queen :

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :—

1. This Act may be cited as "The Commonwealth of Australia Constitution Act".

2. The provisions of this Act referring to the Queen shall extend to Her Majesty's heirs and successors in the sovereignty of the United Kingdom.

3. It shall be lawful for the Queen, with the advice of the Privy Council, to declare by proclamation(1) that, on and after a day therein appointed, not being later than one year after the passing of this Act, the people of New South Wales, Victoria, South Australia, Queensland, and Tasmania, and also, if Her Majesty is satisfied that the people of Western Australia have agreed thereto, of Western Australia, shall be united in a Federal Commonwealth under the name of "the Commonwealth of Australia". But the Queen may, at any time after the proclamation, appoint a Governor-General for the Commonwealth.

4. The Commonwealth shall be established, and the constitution of the Commonwealth shall take effect, on and after the day so appointed. But the Parliaments of the several Colonies may at any time after the passing of this Act make any such laws, to come into operation on the day so appointed, as they might have made if the constitution had taken effect at the passing of this Act.

5. This Act, and all laws made by the Parliament of the Commonwealth under the constitution, shall be binding on the courts, judges, and people of every State and of every part of the Commonwealth, notwithstanding anything in the laws of any State ; and the laws of the Commonwealth shall be in force on all British ships, the Queen's ships of war excepted, whose first port of clearance and whose port of destination are in the Commonwealth.

6. "The Commonwealth" shall mean the Commonwealth of Australia as established under this Act.

"The States" shall mean such of the Colonies of New South Wales, New Zealand, Queensland, Tasmania, Victoria, Western Australia, and South Australia, including the Northern Territory of South Australia, as for the time being are parts of the Commonwealth, and such colonies or territories as may be admitted into or established by the Commonwealth as States; and each of such parts of the Commonwealth shall be called a "State".

"Original States" shall mean such States as are parts of the Commonwealth at its establishment.

7. "The Federal Council of Australia Act, 1885,"(2) is hereby repealed, but so as not to affect any laws passed by the Federal Council of Australia and in force at the establishment of the Commonwealth.

Any such law may be repealed as to any State by the Parliament of the Commonwealth, or as to any Colony not being a State by the Parliament thereof.

8. After the passing of this Act "The Colonial Boundaries Act, 1895"(3) shall not apply to any Colony which becomes a State of the Commonwealth

(1) appointed by proclamation of September 17, 1900 (*States Papers*, Vol XCIV, page 130), was January 1, 1901.

(2) *States Paper* Vol, LXXVI, page 493.

(3) *Ibid* Vol. L XXX VII, page 967 ;

but the Commonwealth shall be taken to be a self-governing Colony for the purposes of that Act.

9. The Constitution of the Commonwealth shall be as follows :—

THE CONSTITUTION

This constitution is divided as follows :—

Chapter I.—The Parliament :

Part I.—General :

Part II.—The Senate :

Part III.—The House of Representatives :

Part IV.—Both Houses of the Parliament :

Part V.—Powers of the Parliament :

Chapter II.—The Executive Government:

Chapter III.—The Judicature :

Chapter IV.—Finance and Trade :

Chapter V.—The States :

Chapter VI.—New States :

Chapter VII.—Miscellaneous :

Chapter VIII.—Alteration of the Constitution.

The Schedule.

CHAPTER I.—THE PARLIAMENT

PART I.—*General*

1. The legislative power of the Commonwealth shall be vested in a Federal Parliament, which shall consist of the Queen, a Senate and a House of Representatives, and which is hereinafter called "the Parliament", or "the Parliament of the Commonwealth".

2. A Governor-General appointed by the Queen shall be Her Majesty's representative in the Commonwealth, and shall have and may exercise in the Commonwealth during the Queen's pleasure, but subject to this constitution, such powers and functions of the Queen as Her Majesty may be pleased to assign to him.

3. There shall be payable to the Queen out of the Consolidated Revenue Fund of the Commonwealth, for the salary of the Governor-General, an annual sum which, until the Parliament otherwise provides, shall be £10,000.

The salary of a Governor-General shall not be altered during his continuance in office.

4. The provisions of this constitution relating to the Governor-General extend and apply to the Governor-General for the time being, or such person as the Queen may appoint to administer the Government of the Commonwealth; but no such person shall be entitled to receive any salary from the Commonwealth in respect of any other office during his administration of the Government of the Commonwealth.

5. The Governor-General may appoint such times for holding the sessions of the Parliament as he thinks fit, and may also from time to time, by proclamation or otherwise, prorogue the Parliament, and may in like manner dissolve the House of Representatives.

After any general election the Parliament shall be summoned to meet not later than 30 days after the day appointed for the return of the writs.

The Parliament shall be summoned to meet not later than 6 months after the establishment of the Commonwealth.

6. There shall be a session of the Parliament once at least in every year so that 12 months shall not intervene between the last sitting of the Parliament in one session and its first sitting in the next session.

PART II.—*The Senate*

7. The Senate shall be composed of senators for each State, directly chosen by the people of the State, voting, until the Parliament otherwise provides, as one electorate.

But until the Parliament of the Commonwealth otherwise provides, the Parliament of the State of Queensland, if that State be an original State, may make laws dividing the State into divisions and determining the number of senators to be chosen for each division, and in the absence of such provision the State shall be one electorate.

Until the Parliament otherwise provides there shall be 6 senators for each original State. The Parliament may make laws increasing or diminishing the number of senators for each State, but so that equal representation of the several original States shall be maintained and that no original State shall have less than 6 senators.

The senators shall be chosen for a term of 6 years, and the names of the senators chosen for each State shall be certified by the Governor to the Governor-General.

8. The qualification of electors of senators shall be in each State that which is prescribed by this constitution, or by the Parliament, as the qualification for electors of members of the House of Representatives ; but in the choosing of senators each elector shall vote only once.

9. The Parliament of the Commonwealth may make laws prescribing the method of choosing senators, but so that the method shall be uniform for all the States. Subject to any such law, the Parliament of each State may make laws prescribing the method of choosing the senators for that State.

The Parliament of a State may make laws for determining the times and places of elections of senators for the State.

10. Until the Parliament otherwise provides, but subject to this constitution, the laws in force in each State, for the time being, relating to elections for the more numerous House of the Parliament of the State shall, as nearly as practicable, apply to elections of senators for the State.

11. The Senate may proceed to the despatch of business, notwithstanding the failure of any State to provide for its representation in the Senate.

12. The Governor of any State may cause writs to be issued for elections of senators for the State. In case of the dissolution of the Senate the writs shall be issued within 10 days from the proclamation of such dissolution.

13. As soon as may be after the Senate first meets and after each first meeting of the Senate following a dissolution thereof, the Senate shall divide the senators chosen for each State into two classes, as nearly equal in number as practicable ; and the places of the senators of the first class shall become vacant at the expiration of 3 years, and the places of those of the second

class at the expiration of 6 years, from the beginning of their term of service; and afterwards the places of senators shall become vacant at the expiration of 6 years from the beginning of their term of service.

The election to fill vacant places shall be made within one year before the places are to become vacant.

For the purposes of this section the term of service of a senator shall be taken to begin on the first day of July following the day of his election, except in the cases of the first election and of the election next after any dissolution of the Senate, when it shall be taken to begin on the first day of July preceding the day of his election.

14. Whenever the number of senators for a State is increased or diminished, the Parliament of the Commonwealth may make such provision for the vacating of the places of senators for the State as it deems necessary to maintain regularity in the rotation.

15. If the place of a senator becomes vacant before the expiration of his term of service, the Houses of Parliament of the State for which he was chosen shall, sitting and voting together, choose a person to hold the place until the expiration of the term, or until the election of a successor as hereinafter provided, whichever first happens. But if the Houses of Parliament of the State are not in session at the time when the vacancy is notified, the Governor of the State, with the advice of the Executive Council thereof, may appoint a person to hold the place until the expiration of 14 days after the beginning of the next session of the Parliament of the State, or until the election of a successor, whichever first happens.

At the next general election of members of the House of Representatives, or at the next election of senators for the State, whichever first happens, a successor shall, if the term has not then expired, be chosen to hold the place from the date of his election until the expiration of the term.

The name of any senator so chosen or appointed shall be certified by the Governor of the State to the Governor-General.

16. The qualifications of a senator shall be the same as those of a member of the House of Representatives.

17. The Senate shall, before proceeding to the despatch of any other business, choose a senator to be the President of the Senate; and as often as the office of President becomes vacant the Senate shall again choose a senator to be the President.

The President shall cease to hold his office if he ceases to be a senator. He may be removed from office by a vote of the Senate, or he may resign his office or his seat by writing addressed to the Governor-General.

18. Before or during any absence of the President, the Senate may choose a senator to perform his duties in his absence.

19. A senator may, by writing addressed to the President, or to the Governor-General if there is no President or if the President is absent from the Commonwealth, resign his place, which thereupon shall become vacant.

20. The place of a senator shall become vacant if for two consecutive months of any session of the Parliament he, without the permission of the Senate, fails to attend the Senate.

21. Whenever a vacancy happens in the Senate, the President, or if there is no President or if the President is absent from the Commonwealth the Governor-General, shall notify the same to the Governor of the State in the representation of which the vacancy has happened.

22. Until the Parliament otherwise provides, the presence of at least one-third of the whole number of the senators shall be necessary to constitute a meeting of the senate for the exercise of its powers.

23. Questions arising in the Senate shall be determined by a majority of votes, and each senator shall have one vote. The President shall in all cases be entitled to a vote; and when the votes are equal the question shall pass in the negative.

PART III.—*The House of Representatives*

24. The House of Representatives shall be composed of members directly chosen by the people of the Commonwealth, and the number of such members shall be, as nearly as practicable, twice the number of the senators.

The number of members chosen in the several States shall be in proportion to the respective numbers of their people, and shall, until the Parliament otherwise provides, be determined, whenever necessary, in the following manner:—

(*i*) A quota shall be ascertained by dividing the number of the people of the Commonwealth, as shown by the latest statistics of the Commonwealth, by twice the number of the senators.

(*ii*) The number of members to be chosen in each State shall be determined by dividing the number of the people of the State, as shown by the latest statistics of the Commonwealth, by the quota; and if on such division there is a remainder greater than one-half of the quota, one more member shall be chosen in the State.

But notwithstanding anything in this section, five members at least shall be chosen in each original State.

25. For the purposes of the last section, if by the law of any State all persons of any race are disqualified from voting at elections for the more numerous House of the Parliament of the State, then, in reckoning the number of the people of the State or of the Commonwealth, persons of that race resident in that State shall not be counted.

26. Notwithstanding anything in section 24, the number of members to be chosen in each State at the first election shall be as follows:—

New South Wales	23
Victoria	20
Queensland	8
South Australia	6
Tasmania	5

Provided that if Western Australia is an original State, the numbers shall be as follows:—

New South Wales	26
Victoria	23
Queensland	9
South Australia	7
Western Australia	5
Tasmania	5

27. Subject to this constitution, the Parliament may make laws for increasing or diminishing the number of the members of the House of Representatives.

28. Every House of Representatives shall continue for 3 years from the first meeting of the House, and no longer, but may be sooner dissolved by the Governor-General.

29. Until the Parliament of the Commonwealth otherwise provides, the Parliament of any State may make laws for determining the divisions in each State for which members of the House of Representatives may be chosen, and the number of members to be chosen for each division. A division shall not be formed out of parts of different States.

In the absence of other provision, each State shall be one electorate.

30. Until the Parliament otherwise provides, the qualification of electors of members of the House of Representatives shall be in each State that which is prescribed by the law of the State as the qualification of electors of the more numerous House of Parliament of the State; but in the choosing of members each elector shall vote only once.

31. Until the Parliament otherwise provides, but subject to this constitution, the laws in force in each State for the time being relating to elections for the more numerous House of the Parliament of the State shall, as nearly as practicable, apply to elections in the State of members of the House of Representatives.

32. The Governor-General in Council may cause writs to be issued for general elections of members of the House of Representatives.

After the first general election, the writs shall be issued within 10 days from the expiry of a House of Representatives or from the proclamation of a dissolution thereof.

33. Whenever a vacancy happens in the House of Representatives, the Speaker shall issue his writ for the election of a new member, or if there is no Speaker or if he is absent from the Commonwealth the Governor-General in Council may issue the writ.

34. Until the Parliament otherwise provides, the qualifications of a member of the House of Representatives shall be as follows:—

(*i*) He must be of the full age of 21 years, and must be an elector entitled to vote at the election of members of the House of Representatives, or a person qualified to become such elector, and must have been for 3 years at the least a resident within the limits of the Commonwealth as existing at the time when he is chosen.

(*ii*) He must be a subject of the Queen, either natural-born or for at least 5 years naturalised under a law of the United Kingdom, or of a Colony which has become or becomes a State, or of the Commonwealth, or of a State.

35. The House of Representatives shall, before proceeding to the despatch of any other business, choose a member to be the Speaker of the House, and as often as the office of Speaker becomes vacant the House shall again choose a member to be the Speaker.

The Speaker shall cease to hold his office if he ceases to be a member. He may be removed from office by a vote of the House, or he may resign his office or his seat by writing addressed to the Governor-General.

36. Before or during any absence of the Speaker, the House of Representatives may choose a member to perform his duties in his absence.

37. A member may by writing addressed to the Speaker, or to the Governor-General if there is no Speaker or if the Speaker is absent from the Commonwealth, resign his place, which thereupon shall become vacant.

38. The place of a member shall become vacant if for 2 consecutive months of any session of the Parliament he, without the permission of the House, fails to attend the House.

39. Until the Parliament otherwise provides, the presence of at least one-third of the whole number of the members of the House of Representatives shall be necessary to constitute a meeting of the House for the exercise of its powers.

40. Questions arising in the House of Representatives shall be determined by a majority of votes other than that of the Speaker. The Speaker shall not vote unless the numbers are equal, and then he shall have a casting vote.

PART IV.—*Both Houses of the Parliament*

41. No adult person who has or acquires a right to vote at elections for the more numerous House of the Parliament of a State shall, while the right continues, be prevented by any law of the Commonwealth from voting at elections for either House of the Parliament of the Commonwealth.

42. Every senator and every member of the House of Representatives shall before taking his seat make and subscribe before the Governor-General, or some person authorised by him, an oath or affirmation of allegiance in the form set forth in the schedule to this constitution.

43. A member of either House of the Parliament shall be incapable of being chosen or of sitting as a member of the other House.

44. Any person who—

(*i*) Is under any acknowledgment of allegiance, obedience, or adherence to a foreign Power, or is a subject or a citizen or entitled to the rights or privileges of a subject or a citizen of a foreign Power ; or

(*ii*) Is attained of treason, or has been convicted and is under sentence, or subject to be sentenced, for any offence punishable under the law of the Commonwealth or of a State by imprisonment for one year or longer ; or

(*iii*) Is an undischarged bankrupt or insolvent ; or

(*iv*) Holds any office of profit under the Crown, or any pension payable during the pleasure of the Crown out of any of the revenues of the Commonwealth ; or

(*v*) Has any direct or indirect pecuniary interest in any agreement with the public service of the Commonwealth otherwise than as a member and in common with the other members of an incorporated company consisting of more than 25 persons ;

shall be incapable of being chosen or of sitting as a senator or a member of the House of Representatives.

But sub-section (*iv*) does not apply to the office of any of the Queen's Ministers of State for the Commonwealth, or of any of the Queen's Ministers for a State, or to the receipt of pay, half pay, or a pension by any person as an officer or member of the Queen's navy or army, or to the receipt of pay as an

officer or member of the naval or military forces of the Commonwealth by any person whose services are not wholly employed by the Commonwealth.

45. If a senator or member of the House of Representatives—

(*i*) Becomes subject to any of the disabilities mentioned in the last preceding section ; or

(*ii*) Takes the benefit, whether by assignment, composition, or otherwise of any law relating to bankrupt or insolvent debtors ; or

(*iii*) Directly or indirectly takes or agrees to take any fee or honorarium for services rendered to the Commonwealth, or for services rendered in the Parliament to any person or State ;

his place shall thereupon become vacant.

46. Until the Parliament otherwise provides, any person declared by this constitution to be incapable of sitting as a senator or as a member of the House of Representatives shall, for every day on which he so sits, be liable to pay the sum of £100 to any person who sues for it in any court of competent jurisdiction.

47. Until the Parliament otherwise provides, any question respecting the qualification of a senator or of a member of the House of Representatives, or respecting a vacancy in either House of the Parliament, and any question of a disputed election to either House, shall be determined by the House in which the question arises.

48. Until the Parliament otherwise provides, each senator and each member of the House of Representatives shall receive an allowance of £400 a year, to be reckoned from the day on which he takes his seat.

49. The powers, privileges, and immunities of the Senate and of the House of Representatives, and of the members and the committees of each House, shall be such as are declared by the Parliament, and until declared shall be those of the Commons House of Parliament of the United Kingdom, and of its members and committees, at the establishment of the Commonwealth.

50. Each House of the Parliament may make rules and orders with respect to—

(*i*) The mode in which its powers, privileges, and immunities may be exercised and upheld.

(*ii*) The order and conduct of its business and proceedings either separately or jointly with the other House.

PART V.—*Powers of the Parliament*

51. The Parliament shall, subject to this constitution, have power to make laws for the peace, order, and good government of the Commonwealth with respect to :—

(*i*) Trade and commerce with other countries, and among the States.

(*ii*) Taxation ; but so as not to discriminate between States or parts of States.

(*iii*) Bounties on the production or export of goods, but so that such bounties shall be uniform throughout the Commonwealth.

(*iv*) Borrowing money on the public credit of the Commonwealth.

(*v*) Postal, telegraphic, telephonic, and other like services.

(*vi*) The naval and military defence of the Commonwealth and of the several States, and the control of the forces to execute and maintain the laws of the Commonwealth.

(*vii*) Lighthouses, lightships, beacons nd buoys.

(*viii*) Astronomical and meteorological observations.

(*ix*) Quarantine.

(*x*) Fisheries in Australian waters beyond territorial limits.

(*xi*) Census and statistics.

(*xii*) Currency, coinage, and legal tender.

(*xiii*) Banking, other than State banking ; also State banking extending beyond the limits of the State concerned, the incorporation of banks, and the issue of paper money.

(*xiv*) Insurance, other than State insurance ; also State insurance extending beyond the limits of the State concerned.

(*xv*) Weights and measures.

(*xvi*) Bills of exchange and promissory notes.

(*xvii*) Bankruptcy and insolvency.

(*xviii*) Copyrights, patents of inventions and designs, and trade marks.

(*xix*) Naturalisation and aliens.

(*xx*) Foreign corporations, and trading or financial corporations formed within the limits of the Commonwealth.

(*xxi*) Marriage.

(*xxii*) Divorce and matrimonial causes ; and in relation thereto, parental rights, and the custody and guardianship of infants.

(*xxiii*) Invalid and old age pensions.

(*xxiv*) The service and execution throughout the Commonwealth of the civil and criminal process and the judgments of the courts of the States.

(*xxv*) The recognition throughout the Commonwealth of the laws, the public Acts and records, and the judicial proceedings of the States.

(*xxvi*) The people of any race, other than the aboriginal race in any State, for whom it is deemed necessary to make special laws.

(*xxvii*) Immigration and emigration.

(*xxviii*) The influx of criminals.

(*xxix*) External affairs.

(*xxx*) The relations of the Commonwealth with the islands of the Pacific.

(*xxxi*) The acquisition of property on just terms from any State or person in respect of which the Parliament has power to make laws.

(*xxxii*) The control of railways with respect to transport for the naval and military purposes of the Commonwealth.

(*xxxiii*) The acquisition, with the consent of a State, of any railways of the State on terms arranged between the Commonwealth and the State.

(*xxxiv*) Railway construction and extension in any State with the consent of that State.

(*xxxv*) Conciliation and arbitration for the prevention and settlement of industrial disputes extending beyond the limits of any one State.

(*xxxvi*) Matters in respect of which this constitution makes provision until the Parliament otherwise provides.

(*xxxvii*) Matters referred to the Parliament of the Commonwealth by the Parliament or Parliaments of any State or States, but so that the law shall extend only to States by whose Parliaments the matter is referred, or which afterwards adopt the law.

(*xxxviii*) The exercise within the Commonwealth, at the request or with the concurrence of the Parliaments of all the States directly concerned, of any power which can at the establishment of this constitution be exercised only by the Parliament of the United Kingdom or by the Federal Council of Australasia.

(*xxxix*) Matters incidental to the execution of any power vested by this constitution in the Parliament or in either House thereof, or in the Government of the Commonwealth, or in the Federal judicature, or in any department or officer of the Commonwealth.

52. The Parliament shall, subject to this constitution, have exclusive power to make laws for the peace, order, and good government of the Commonwealth with respect to—

(*i*) The seat of government of the Commonwealth, and all places acquired by the Commonwealth for public purposes.

(*ii*) Matters relating to any department of the public service the control of which is by this constitution transferred to the Executive Government of the Commonwealth.

(*iii*) Other matters declared by this constitution to be within the exclusive power of the Parliament.

53. Proposed laws appropriating revenue or moneys, or imposing taxation, shall not originate in the Senate. But a proposed law shall not be taken to appropriate revenue or moneys, or to impose taxation, by reason only of its containing provisions for the imposition or appropriation of fines or other pecuniary penalties, or for the demand or payment or appropriation of fees for licences, or fees for services under the proposed law.

The Senate may not amend proposed laws imposing taxation, or proposed laws appropriating revenue or moneys for the ordinary annual services of the Government.

The Senate may not amend any proposed law so as to increase any proposed charge or burden on the people.

The Senate may at any stage return to the House of Representatives any proposed law which the Senate may not amend, requesting, by message, the omission or amendment of any items or provisions therein. And the House of Representatives may, if it thinks fit, make any of such omissions or, amendments, with or without modifications.

Except as provided in this section, the Senate shall have equal power with the House of Representatives in respect of all proposed laws.

54. The proposed law which appropriates revenue or moneys for the ordinary annual services of the Government shall deal only with such appropriation.

55. Laws imposing taxation shall deal only with the imposition of taxation, and any provision therein dealing with any other matter shall be of no effect.

Laws imposing taxation, except laws imposing duties of customs or of excise, shall deal with one subject of taxation only; but laws imposing duties of customs shall deal with duties of customs only, and laws imposing duties of excise shall deal with duties of excise only.

56. A vote, resolution, or proposed law for the appropriation of revenue or moneys shall not be passed unless the purpose of the appropriaton has in the same session been recommended by message of the Governor-General to the House in which the proposal originated.

57. If the House of Representatives passes any proposed law, and the Senate rejects or fails to pass it, or passes it with amendments to which the House of Representatives will not agree and if after an interval of 3 months the House of Representatives, in the same or the next session, again passes the proposed law with or without any amendments which have been made, suggested, or agreed to by the Senate, and the Senate rejects or fails to pass it, or passes it with amendments to which the House of Representatives will not agree, the Governor-General may dissolve the Senate and the House of Representatives simultaneously. But such dissolution shall not take place within 6 months before the date of the expiry of the House of Representatives by effluxion of time.

If after such dissolution the House of Representatives again passes the proposed law, with or without any amendments which have been made, suggested, or agreed to by the Senate, and the Senate rejects or fails to pass it, or passes it with amendments to which the House of Representatives will not agree, the Governor-General may convene a joint sitting of the members of the Senate and of the House of Representatives.

The members present at the joint sitting may deliberate and shall vote together upon the proposed law as last proposed by the House of Representatives, and upon amendments, if any, which have been made therein by one House and not agreed to by the other, and any such amendments which are affirmed by an absolute majority of the total number of the members of the Senate and House of Representatives shall be taken to have been carried and if the proposed law, with the amendments, if any, so carried is affirmed by an absolute majority of the total number of the members of the Senate and House of Representatives, it shall be taken to have been duly passed by both Houses of the Parliament, and shall be presented to the Governor-General for the Queen's assent.

58. When a proposed law passed by both Houses of the Parliament is presented to the Governor-General for the Queen's assent, he shall declare, according to his discretion, but subject to this constitution, that he assents in the Queen's name, or that he withholds assent, or that he reserves the law for the Queen's pleasure.

The Governor-General may return to the House in which it originated any proposed law so presented to him, and may transmit therewith any amendments which he may recommend, and the Houses may deal with the recommendation.

59. The Queen may disallow any law within one year from the Governor-General's assent, and such disallowance on being made known by the Governor-General by speech or message to each of the Houses of the Parliament, or by proclamation, shall annul the law from the day when the disallowance is so made known.

60. A proposed law reserved for the Queen's pleasure shall not have any force unless and until within two years from the day on which it was presented to the Governor-General for the Queen's assent the Governor-General makes known, by speech or messge to each of the Houses of the Parliament, or by proclamation, that it has received the Queen's assent.

CHAPTER II.—THE EXECUTIVE GOVERNMENT

61. The Executive power of the Commonwealth is vested in the Queen and is exercisable by the Governor-General as the Queen's representative and extends to the execution and maintenance of this constitution and of the laws of the Commonwealth.

62. There shall be a Federal Executive Council to advise the Governor-General in the government of the Commonwealth, and the members of the Council shall be chosen and summoned by the Governor-General and sworn as Executive Councillors, and shall hold office during his pleasure.

63. The provisions of this constitution referring to the Governor-General in Council shall be construed as referring to the Governor-General acting with the advice of the Federal Executive Council.

64. The Governor-General may appoint officers to administer such departments of State of the Commonwealth as the Governor-General in Council may establish.

Such officers shall hold office during the pleasure of the Governor-General. They shall be members of the Federal Executive Council and shall be the Queen's Ministers of State for the Commonwealth.

After the first general election no Minister of State shall hold office for a longer period than 3 months unless he is or becomes a senator or a member of the House of Representatives.

65. Until the Parliament otherwise provides, the Ministers of State shall not exceed seven in number, and shall hold such offices as the Parliament prescribes, or, in the absence of provision, as the Governor-General directs.

66. There shall be payable to the Queen, out of the Consolidated Revenue Fund of the Commonwealth, for the salaries of the Ministers of State, an annual sum which, until the Parliament otherwise provides, shall not exceed £12,000 a year.

67. Until the Parliament otherwise provides, the appointment and removal of all other officers of the Executive Government of the Commonwealth shall be vested in the Governor-General in Council, unless the appointment is delegated by the Governor-General in council or by a law of the Commonwealth to some other authority.

68. The command in chief of the naval and military forces of the Commonwealth is vested in the Governor-General as the Queen's representative.

69. On a date or dates to be proclaimed by the Governor-General after the establishment of the Commonwealth the following departments of the public service in each State shall become transferred to the Commonwealth :—

Posts, telegraphs and telephones.

Naval and military defence.

Lighthouses, lightships, beacons and buoys.

Quarantine.

But the departments of customs and of excise in each State shall become transferred to the Commonwealth on its establishment.

70. In respect of matters which, under this constitution, pass to the Executive Government of the Commonwealth, all powers and functions which at the establishment of the Commonwealth are vested in the Governor of a Colony, or in the Governor of a Colony with the advice of his Executive Council, or in any authority of a Colony, shall vest in the Governor-General or in the Governor-General in Council, or in the authority exercising powers under the Commonwealth as the case requires.

CHAPTER III.—THE JUDICATURE

71. The judicial power of the Commonwealth shall be vested in a Federal Supreme Court, to be called "the High Court of Australia," and in such other federal courts as the Parliament creates, and in such other courts as it invests with federal jurisdiction. The High Court shall consist of a Chief Justice and so many other justices, not less than two, as the Parliament prescribes.

72. The justices of the High Court and of the other courts created by the Parliament—

(*i*) Shall be appointed by the Governor-General in Council.

(*ii*) Shall not be removed except by the Governor-General in Council, on an address from both Houses of the Parliament in the same session, praying for such removal on the ground of proved misbehaviour or incapacity.

(*iii*) Shall receive such remuneration as the Parliament may fix; but the remuneration shall not be diminished during their continuance in office.

73. The High Court shall have jurisdiction, with such exceptions and subject to such regulations as the Parliament prescribes, to hear and determine appeals from all judgments, decrees, orders, and sentences—

(*i*) Of any justice or justices exercising the original jurisdiction of the High Court;

(*ii*) Of any other federal court, or court exercising federal jurisdiction; or of the Supreme Court of any State, or of any other court of any State from which at the establishment of the Commonwealth an appeal lies to the Queen in Council;

(*iii*) Of the Inter-State Commission, but as to questions of law only; and the judgment of the High Court in all such cases shall be final and conclusive.

But no exception or regulation prescribed by the Parliament shall prevent the High Court from hearing and determining any appeal from the Supreme Court of a State in any matter in which at the establishment of the Commonwealth an appeal lies from such Supreme Court to the Queen in Council.

Until the Parliament otherwise provides, the conditions of and restrictions on appeals to the Queen in Council from the Supreme Courts of the several States shall be applicable to appeals from them to the High Court.

74. No appeal shall be permitted to the Queen in Council from a decision of the High Court upon any question, howsoever arising, as to the limits *inter se* of the Constitutional powers of the Commonwealth and those of any State or States, or as to the limits *inter se* of the constitutional powers of any two or more States, unless the High Court shall certify that the question is on which ought to be determined by Her Majesty in Council.

The high court may so certify if satisfied that for any special reason the certificate should be granted, and thereupon an appeal shall lie to Her Majesty in Council on the question without further leave.

Except as provided in this section, this constitution shall not impair any right which the Queen may be pleased to exercise by virtue of Her royal prerogative to grant special leave of appeal from the High Court to Her Majesty in Council. The Parliament may make laws limiting the matters in which such leave may be asked, but proposed laws containing any such limitation shall be reserved by the Governor-General for Her Majesty's pleasure.

75. In all matters—

(*i*) Arising under any treaty;

(*ii*) Affecting consuls or other representatives of other countries;

(*iii*) In which the Commonwealth, or a person suing or being sued on behalf of the Commonwealth, is a party;

(*iv*) Between States, or between residents of different States, or between a State and a resident of another State;

(*v*) In which a writ of mandamus or prohibition or an injunction is sought against an officer of the Commonwealth;

the high court shall have original jurisdiction.

76. The Parliament may make laws conferring original jurisdiction on the High Court in any matter—

(*i*) Arising under this constitution, or involving its interpretation.

(*ii*) Arising under any laws made by the Parliament.

(*iii*) Of Admiralty and maritime jurisdiction.

(*iv*) Relating to the same subject-matter claimed under the laws of different States.

77. With respect to any of the matters mentioned in the last two sections the Parliament may make laws—

(*i*) Defining the jurisdiction of any federal court other than the High Court.

(*ii*) Defining the extent to which the jurisdiction of any federal court shall be exclusive of that which belongs to or is invested in the courts of the States.

(*iii*) Investing any court of a State with federal jurisdiction.

78. The Parliament may make laws conferring rights to proceed against the Commonwealth or a State in respect of matters within the limits of the judicial power.

79. The federal jurisdiction of any court may be exercised by such number of judges as the Parliament prescribes.

80. The trial on indictment of any offence against any law of the Commonwealth shall be by jury, and every such trial shall be held in the State where the offence was committed, and if the offence was not committed within any State the trial shall be held at such place or places as the Parliament prescribes.

CHAPTER IV.—FINANCE AND TRADE

81. All revenues or moneys raised or received by the Executive Government of the commonwealth shall form one Consolidated Revenue Fund, to be appropriated for the purposes of the Commonwealth in the manner and subject to the charges and liabilities imposed by this constitution.

82. The costs, charges, and expenses incident to the collection, management, and receipt of the Consolidated Revenue Fund shall form the first charge thereon; and the revenue of the Commonwealth shall in the first instance be applied to the payment of the expenditure of the Commonwealth.

83. No money shall be drawn from the Treasury of the Commonwealth except under appropriation made by law.

But until the expiration of one month after the first meeting of the Parliament the Governor-General in Council may draw from the Treasury and expend such moneys as may be necessary for the maintenance of any department transferred to the Commonwealth and for the holding of the first elections for the Parliament.

84. When any department of the public service of a State becomes transferred to the Common wealth, all officers of the department shall become subject to the control of the Executive Government of the Commonwealth.

Any such officer who is not retained in the service of the Commonwealth shall, unless he is appointed to some other office of equal emolument in the public service of the State be entitled to receive from the State any pension, gratuity, or other compensation, payable under the law of the State on the abolition of his office.

Any such officer who is retained in the service of the Commonwealth shall preserve all his existing and accruing rights, and shall be entitled to retire from office at the time, and on the pension or retiring allowance, which would be permitted by the law of the State if his service with the Commonwealth were a continuation of his service with the State. Such pension or retiring allowance shall be paid to him by the Commonwealth; but the State shall pay to the Commonwealth a part thereof, to be calculated on the proportion which his term of service with the State bears to his whole term of service, and for the purpose of the calculation his salary shall be taken to be that paid to him by the State at the time of the transfer.

Any officer who is, at the establishment of Commonwealth, in the public service of a State, and who is, by consent of the Governor of the State with the advice of the Executive Council thereof, transferred to the public service of the Commonwealth, shall have the same rights as if he had been an officer of a department transferred to the Commonwealth and were retained in the service of the Commonwealth.

85. When any department of the public service of a State is transferred to the Commonwealth—

(*i*) All property of the State of any kind, used exclusively in connexion with the department, shall become vested in the Commonwealth; but in the case of the departments controlling customs and excise and bounties, for such time only as the Governor-General in Council may declare to be necessary.

(*ii*) The Commonwealth may acquire any property of the State of any kind used, but not exclusively used, in connexion with the department; the value thereof shall, if no agreement can be made, be ascertained in as nearly as may be

the manner in which the value of the land, or of an interest in land, taken by the State for public purposes is ascertained under the law of the State in force at the establishment of the Commonwealth.

(*iii*) The Commonwealth shall compensate the State for the value of any property passing to the Commonwealth under this section ; if no agreement can be made as to the mode of compensation, it shall be determined under laws to be made by the Parliament.

(*iv*) The Commonwealth shall, at the date of the transfer, assume the current obligations of the State in respect of the department transferred.

86. On the establishment of the Commonwealth, the collection and control of duties of customs and of excise, and the control of the payment of bounties, shall pass to the Executive Government of the Commonwealth.

87. During a period of 10 years after the establishment of the Commonwealth and thereafter until the Parliament otherwise provides, of the net revenue of the Commonwealth from duties of customs and of excise not more than one-fourth shall be applied annually by the Commonwealth towards its expenditure.

The balance shall, in accordance with this constitution, be paid to the several States, or applied towards the payment of interest on debts of the several States taken over by the Commonwealth.

88. Uniform duties of customs shall be imposed within 2 years after the establishment of the Commonwealth.

89. Until the imposition of uniform duties of customs—

(*i*) The Commonwealth shall credit to each State the revenues collected therein by the Commonwealth.

(*ii*) The Commonwealth shall debit to each State—

(*a*) The expenditure therein of the Commonwealth incurred solely for the maintenance or continuance, as at the time of transfer, of any department transferred from the State to the Commonwealth.

(*b*) The proportion of the State, according to the number of its people in the other expenditure of the Commonwealth.

(*iii*) The Commonwealth shall pay to each State month by month the balance (if any) in favour of the State.

90. On the imposition of uniform duties of customs the power of the Parliament to impose duties of customs and of excise and to grant bounties on the production or export of goods, shall become exclusive.

On the imposition of uniform duties of customs all laws of the several States imposing duties of customs or of excise, or offering bounties on the production or export of goods, shall cease to have effect, but any grant of or agreement for any such bounty lawfully made by or under the authority of the Government of any State shall be taken to be good if made before the 30th day of June, 1898, and not otherwise.

91. Nothing in this constitution prohibits a State from granting any aid to or bounty on mining for gold, silver, or other metals, nor from granting, with the consent of both Houses of the Parliament of the Commonwealth expressed by resolution, any aid to or bounty on the production or export of goods.

92. On the imposition of uniform duties of customs, trade, commerce, and intercourse among the States, whether by means of internal carriage or ocean navigation, shall be absolutely free.

But notwithstanding anything in this constitution, goods imported before the imposition of uniform duties of customs into any State or into any Colony which, whilst the goods remain therein becomes a State, shall, on thence passing into another State within 2 years after the imposition of such duties, be liable to any duty chargeable on the importation of such goods into the Commonwealth, less any duty paid in respect of the goods on their importation.

93. During the first 5 years after the imposition of uniform duties of customs, and thereafter until the Parliament otherwise provides—

(*i*) The duties of customs chargeable on goods imported into a State and afterwards passing into another State for consumption, and the duties of excise paid on goods produced or manufactured in a State and afterwards passing into another State for consumption, shall be taken to have been collected not in the former but in the latter State.

(*ii*) Subject to the last sub-section, the Commonwealth shall credit revenue, debit expenditure, and pay balances to the several States as prescribed for the period preceding the imposition of uniform duties of customs.

94. After 5 years from the imposition of uniform duties of customs, the Parliament may provide, on such basis as it deems fair, for the monthly payment to the several States of all surplus revenue of the Commonwealth.

95. Notwithstanding anything in this constitution, the Parliament of the State of Western Australia, if that State be an original State, may, during the first 5 years after the imposition of uniform duties of customs, impose duties of customs on goods passing into that State and not originally imported from beyond the limits of the Commonwealth ; and such duties shall be collected by the Commonwealth.

But any duty so imposed on any goods shall not exceed during the first of such years the duty chargeable on the goods under the law of Western Australia in force at the imposition of uniform duties, and shall not exceed during the second, third, fourth and fifth of such years respectively, four-fifths, three-fifths, two-fifths, and one-fifth of such latter duty, and all duties imposed under this section shall cease at the expiration of the fifth year after the imposition of uniform duties.

If at any time during the 5 years the duty on any goods under this section is higher than the duty imposed by the Commonwealth on the importation of the like goods, then such higher duty shall be collected on the goods when imported into Western Australia from beyond the limits of the Commonwealth.

96. During a period of 10 years after the establishment of the Commonwealth and thereafter until the Parliament otherwise provides, the Parliament may grant financial assistance to any State on such terms and conditions as the Parliament thinks fit.

97. Until the Parliament otherwise provides, the laws in force in any Colony which has become or becomes a State with respect to the receipt of revenue and the expenditure of money on account of the Government of the Colony, and the review and audit of such receipt and expenditure shall apply to the receipt of revenue and the expenditure of money on account of the Commonwealth in the State in the same manner as if the Commonwealth

or the Government or an officer of the Commonwealth, were mentioned whenever the Colony or the Government or an officer of the Colony is mentioned.

98. The power of the Parliament to make laws with respect to trade and commerce extends to navigation and shipping, and to railways the property of any State.

99. The Commonwealth shall not, by any law or regulation of trade, commerce, or revenue, give preference to one State or any part thereof over another State or any part thereof.

100. The Commonwealth shall not, by any law or regulation of trade or commerce, abridge the right of a State or of the residents therein to the reasonable use of the waters of rivers for conservation or irrigation.

101. There shall be an Inter-State Commission, with such powers of adjudication and administration as the Parliament deems necessary for the execution and maintenance, within the Commonwealth, of the provisions of this constitution relating to trade and commerce, and of all laws made thereunder.

102. The Parliament may by any law with respect to trade or commerce forbid, as to railways, any preference or discrimination by any State, or by any authority constituted under a State, if such preference or discrimination is undue and unreasonable, or unjust to any State; due regard being had to the financial responsibilities incurred by any State in connexion with the construction and maintenance of its railways. But no preference or discrimination shall, within the meaning of this section, be taken to be undue and unreasonable, or unjust to any State, unless so adjudged by the Inter-State Commission.

103. The members of the Inter-State Commission—

(*i*) Shall be appointed by the Governor-General in Council.

(*ii*) Shall hold office for 7 years, but may be removed within that time by the Governor-General in Council, on an address from both Houses of the Parliament in the same session praying for such removal on the ground of proved misbehaviour or incapacity.

(*iii*) Shall receive such remuneration as the Parliament may fix; but such remuneration shall not be diminished during their continuance in office.

104. Nothing in this constitution shall render unlawful any rate for the carriage of goods upon a railway, the property of a State, if the rate is deemed by the Inter-State Commission to be necessary for the development of the territory of the State, and if the rate applies equally to goods within the State and to goods passing into the State from other States.

105. The Parliament may take over from the States their public debts, or a proportion thereof according to the respective numbers of their people as shown by the latest statistics of the Commonwealth, and may convert, renew, or consolidate such debts, or any part thereof; and the States shall indemnify the Commonwealth in respect of the debts taken over, and thereafter the interest payable in respect of the debts shall be deducted and retained from the portions of the surplus revenue of the Commonwealth payable to the several States, or if such surplus is insufficient or, if there is no surplus, then the deficiency or the whole amount shall be paid by the several States.

105A.—(1) The Commonwealth may make agreements with the States with respect to the public debts of the States, including—

(*a*) the taking over of such debts by the Commonwealth ;

(*b*) the management of such debts ;

(*c*) the payment of interest and the provision and management of sinking funds in respect of such debts ;

(*d*) the consolidation, renewal, conversion and redemption of such debts ;

(*e*) the indemnification of the Commonwealth by the States in respect of debts taken over by the Commonwealth ; and

(*f*) the borrowing of money by the States or by the Commonwealth, or by the Commonwealth for the States.

(2) The Parliament may make laws for validating any such agreement made before the commencement of this section.

(3) The Parliament may make laws for the carrying out by the parties thereto of any such agreement.

(4) Any such agreement may be varied or rescinded by the parties thereto.

(5) Every such agreement and any such variation thereof shall be binding upon the Commonwealth and the States parties thereto notwithstanding anything contained in this constitution or the constitution of the several States or in any law of the Parliament of the Commonwealth or of any State

(6) The powers conferred by this section shall not be construed as being limited in any way by the provisions of section 105 of this constitution.

CHAPTER V.—THE STATES

106. The constitution of each State of the Commonwealth shall, subject to this constitution, continue as at the establishment of the Commonwealth, or as at the admission or establishment of the State, as the case may be, until altered in accordance with the constitution of the State.

107. Every power of the Parliament of a Colony which has become or becomes a State, shall, unless it is by this constitution exclusively vested in the Parliament of the Commonwealth or withdrawn from the Parliament of the State, continue as at the establishment of the Commonwealth, or as at the admission or establishment of the State, as the case may be.

108. Every law in force in a Colony which has become or becomes a State, and relating to any matter within the powers of the Parliament of the Commonwealth, shall, subject to this constitution, continue in force in the State and, until provision is made in that behalf by the Parliament of the Commonwealth, the Parliament of the State shall have such powers of alteration and of repeal in respect of any such law as the Parliament of the Colony had until the Colony became a State.

109. When a law of a State is inconsistent with a law of the Commonwealth, the latter shall prevail, and the former shall, to the extent of the inconsistency, be invalid.

110. The provisions of this constitution relating to the Governor of a State extend and apply to the Governor for the time being of the State, or other chief executive officer or administration of the Government of the State.

111. The Parliament of a State may surrender any part of the State to the Commonwealth ; and upon such surrender, and the acceptance thereof by the Commonwealth, such part of the State shall become subject to the exclusive jurisdiction of the Commonwealth.

112. After uniform duties of customs have been imposed, a State may levy on imports or exports, or on goods passing into or out of the State, such charges as may be necessary for executing the inspection laws of the State ; but the net produce of all charges so levied shall be for the use of the Commonwealth ; and any such inspection laws may be annulled by the Parliament of the Commonwealth.

113. All fermented, distilled, or other intoxicating liquids passing into any State or remaining therein for use, consumption, sale, or storage, shall be subject to the laws of the State as if such liquids had been produced in the State.

114. A State shall not, without the consent of the Parliament of the Commonwealth, raise or maintain any naval or military force, or impose any tax on property of any kind belonging to the Commonwealth, nor shall the Commonwealth impose any tax on property of any kind belonging to a State.

115. A State shall not coin money, nor make anything but gold and silver coin a legal tender in payment of debts.

116. The Commonwealth shall not make any law for establishing any religion, or for imposing any religious observance, or for prohibiting the free exercise of any religion, and no religious test shall be required as a qualification for any office or public trust under the Commonwealth.

117. A subject of the Queen, resident in any State, shall not be subject in any other State to any disability or discrimination which would not be equally applicable to him if he were a subject of the Queen resident in such other State.

118. Full faith and credit shall be given throughout the Commonwealth to the laws, the public Acts and records, and the judicial proceedings of every State.

119. The Commonwealth shall protect every State against invasion and, on the application of the Executive Government of the State, against domestic violence.

120. Every State shall make provision for the detention in its prisons of persons accused or convicted of offences against the laws of the Commonwealth, and for the punishment of persons convicted of such offences, and the Parliament of the Commonwealth may make laws to give effect to this provision.

CHAPTER VI.—NEW STATES

121. The Parliament may admit to the Commonwealth or establish new States, and may upon such admission or establishment make or impose such terms and conditions, including the extent of representation in either House of the Parliament, as it thinks fit.

122. The Parliament may make laws for the government of any territory surrendered by any State to and accepted by the Commonwealth, or of any territory placed by the Queen under the authority of and accepted by the -

Commonwealth, or otherwise acquired by the Commonwealth, and may allow the representation of such territory in either House of the Parliament to the extent and on the terms which it thinks fit.

123. The Parliament of the Commonwealth may, with the consent of the Parliament of a State, and the approval of the majority of the electors of the State voting upon the question, increase, diminish, or otherwise alter the limits of the State, upon such terms and conditions as may be agreed on, and may, with the like consent, make provision respecting the effect and operation of any increase or diminution or alteration of territory in relation to any State affected.

124. A new State may be formed by separation of territory from a State but only with the consent of the Parliament thereof, and a new State may be formed by the union of two or more States or parts of States, but only with the consent of the Parliaments of the States affected.

CHAPTER VII.—MISCELLANEOUS

125. The seat of Government of the Commonwealth shall be determined by the Parliament, and shall be within territory which shall have been granted to or acquired by the Commonwealth, and shall be vested in and belong to the Commonwealth, and shall be in the State of New South Wales, and be distant not less than 100 miles from Sydney.

Such territory shall contain an area of not less than 100 square miles and such portion thereof as shall consist of Crown lands shall be granted to the Commonwealth without any payment therefor.

The Parliament shall sit at Melbourne until it meets at the seat of Government.

126. The Queen may authorise the Governor-General to appoint any person, or any persons jointly or severally, to be his deputy or deputies within any part of the Commonwealth, and in that capacity to exercise during the pleasure of the Governor-General such powers and functions of the Governor-General as he thinks fit to assign to such deputy or deputies, subject to any limitations expressed or directions given by the Queen ; but the appointment of such deputy or deputies shall not affect the exercise by the Governor-General himself of any power or function.

127. In reckoning the numbers of the people of the Commonwealth, or of a State or other part of the Commonwealth, aboriginal natives shall not be counted.

CHAPTER VIII.—ALTERATION OF THE CONSTITUTION

128. This constitution shall not be altered except in the following manner :—

The proposed law for the alteration thereof must be passed by an absolute majority of each House of the Parliament, and not less than 2 nor more than 6 months after its passage through both Houses the proposed law shall be submitted in each State to the electors qualified to vote for the election of members of the House of Representatives.

But if either House passes any such proposed law by an absolute majority and the other House rejects or fails to pass it or passes it with any amendment to which the first-mentioned House will not agree, and if after an interval of 3 months the first-mentioned House in the same or the next session again passes the proposed law by an absolute majority with or without any amendment which has been made or agreed to by the other House and such other House rejects or fails to pass it or passes it with any amendment to which the first-mentioned House will not agree, the Governor-General may submit the proposed law as last proposed by the first-mentioned House, and either with or without any amendments subsequently agreed to by both Houses, to the electors in each State qualified to vote for the election of the House of Representatives.

When a proposed law is submitted to the electors the vote shall be taken in such manner as the Parliament prescribes. But until the qualification of electors of members of the House of Representatives becomes uniform throughout the Commonwealth, only one-half the electors voting for and against the proposed law shall be counted in any State in which adult suffrage prevails.

And if in a majority of the States a majority of the electors voting, approve the proposed law, and if a majority of all the electors voting also approve the proposed law, it shall be presented to the Governor-General for the Queen's assent.

No alteration diminishing the proportionate representation of any State in either House of the Parliament, or the minimum number of representatives of a State in the House of Representatives, or increasing, diminishing, or otherwise altering the limits of the State or in any manner affecting the provision of the constitution in relation thereto, shall become law unless the majority of the electors voting in that State approve the proposed law.

SCHEDULE

OATH

I, *A.B.*, do swear that I will be faithful and bear true allegiance to Her Majesty Queen Victoria, her heirs and successors according to law. So help me God !

AFFIRMATION

I, *A.B.*, do solemnly and sincerely affirm and declare that I will be faithful and bear true allegiance to Her Majesty Queen Victoria, her heirs and successors according to law.

(NOTE.—*The name of the King or Queen of the United Kingdom of Great Britain and Ireland for the time being is to be substituted from time to time.*)

2. Letters Patent, 1900 (as amended 1920).

Victoria, by the Grace of God of the United Kingdom of Great Britain and Ireland Queen, Defender of the Faith, Empress of India : To all to whom these presents shall come, Greeting.

Whereas, by an Act of Parliament passed on the 9th day of July, 1900(1) in the 64th year of our reign, intituled " An Act to constitute the Commonwealth of Australia," it is enacted that

[Here section 3 is quoted.]

(1) Pages 39,?

And whereas we did on the 17th day of September, 1900, by and with the advice of our Privy Council, declare by proclamation(1) that, on and after the 1st day of January, 1901, the people of New South Wales, Victoria, South Australia, Queensland, and Tasmania, and also Western Australia, should be united in a Federal Commonwealth under the name of " the Commonwealth of Australia " : And whereas by the said recited Act certain powers, functions, and authorities were declared to be vested in the Governor-General : And whereas we are desirous of making effectual and permanent provision for the office of Governor-General and Commander-in-Chief in and over our said Commonwealth of Australia, without making new Letters Patent on each demise of the said office : Now know ye that we have thought fit to constitute order, and declare, and do by these presents constitute, order, and declare that there shall be a Governor-General and Commander-in-Chief (hereinafter called " the Governor-General ") in and over our Commonwealth of Australia (hereinafter called " our said Commonwealth "), and that the person who shall fill the said office of Governor-General shall be from time to time appointed by Commission under our Sign Manual and Signet. And we do hereby authorise and command our said Governor-General to do and execute, in due manner all things that shall belong to his said command, and to the trust we have reposed in him, according to the several powers and authorities granted or appointed him by virtue of " The Commonwealth of Australia Constitution Act, 1900," and of these present Letters Patent and of such Commission as may be issued to him under our Sign Manual and Signet, and according to such Instructions as may from time to time be given to him, under our Sign Manual and Signet, or by our Order in our Privy Council, or by us through one of our Principal Secretaries of State, and to such laws as shall hereafter be in force in our said Commonwealth.

2. There shall be a Great Seal of and for our said Commonwealth which our said Governor-General shall keep and use for sealing all things whatsoever that shall pass the said Great Seal : Provided that until a Great Seal shall be provided, the private seal of our said Governor-General may be used as the Great Seal of the Commonwealth of Australia.

3. The Governor-General may constitute and appoint, in our name and on our behalf, all such judges, commissioners, justices of the peace, and other necessary officers and Ministers of our said Commonwealth, as may be lawfully constituted or appointed by us.

4. The Governor-General, so far as we ourselves lawfully may, upon sufficient cause to him appearing, may remove from his office, or suspend from the exercise of the same, any person exercising any office of our said Commonwealth, under or by virtue of any commission or warrant granted, or which may be granted, by us in our name or under our authority.

5. The Governor-General may on our behalf exercise all powers under " The Commonwealth of Australia Constitution Act, 1900," or otherwise in respect of the summoning, proroguing, or dissolving the Parliament of our said Commonwealth.

6. And whereats by " The Commonwealth of Australia Constitution Act 1900," it is amongst other things enacted, that we may authorise the Governor-General to appoint any person or persons, jointly or severally, to be his deputy or deputies within any part of our Commonwealth, and in that capacity to exercise, during the pleasure of the Governor-General, such powers and functions of the said Governor-General as he thinks fit to assign to such deputy or

(1) *State Papers* Vol. XCIV, Page 130.

deputies, subject to any limitations expressed or directions given by us : Now we do hereby authorise and empower our said Governor-General, subject to such limitations and directions as aforesaid, to appoint any person or persons jointly or severally, to be his deputy or deputies within any part of our said Commonwealth of Australia, and in that capacity to exercise, during his pleasure, such of his powers and functions as he may deem it necessary or expedient to assign to him or them : Provided always, that the appointment of such a deputy or deputies shall not affect the exercise by the Governor-General himself of any power or function.

7. And we do hereby declare our pleasure to be that, in the event of the death, incapacity, removal or absence of the Governor-General out of our said Commonwealth, all and every the powers and authorities granted to him shall until our further pleasure is signified therein, be vested in such person as may be appointed by us under our Sign Manual and Signet to be our Lieutenant-Governor of our said Commonwealth ; or if there shall be no such Lieutenant-Governor in our said Commonwealth, then in such person or persons as may be appointed by us under our Sign Manual and Signet to administer the Government of the same : Provided always that the absence of the Governor-General from our said Commonwealth for the purpose of visiting our Territory of Papua or any other territory now or hereafter placed under the administration of the Government of our said Commonwealth shall not be deemed absence out of our said Commonwealth within the meaning of this clause of these our Letters Patent. No such powers or authorities shall vest in such Lieutenant-Governor, or such other person or persons, until he or they shall have taken the oaths appointed to be taken by the Governor-General of our said Commonwealth, and in the manner provided by the Instructions [1] accompanying these our Letters Patent, or any other Instructions amending the same.

8. And we do hereby require and command all our officers and Ministers, civil and military, and all others the inhabitants of our said Commonwealth to be obedient, aiding, and assisting unto our said Governor-General, or, in the event of his death, incapacity or absence, to such person or persons as may, from time to time, under the provisions of these our Letters Patent, administer the Government of our said Commonwealth.

9. And we do hereby reserve to ourselves, our heirs and successors, full power and authority from time to time to revoke, alter, or amend these our Letters Patent as to us or them shall seem meet.

10. And we do further direct and enjoin that these our Letters Patent shall be read and proclaimed at such place or places as our said Governor-General shall think fit within our said Commonwealth of Australia.

In witness whereof we have caused these our Letters to be made Patent. Witness ourself at Westminster, the 29th day of October, in the 64th year of our reign.

By warrant under the Queen's Sign Manual.

MUIR MACKENZIE.

3. Royal Instructions, 1900 (as amended 1902 and 1920)

VICTORIA R.I.

Whereas by certain Letters Patent bearing even date[2] *herewith, we have constituted, ordered, and declared that there shall be a Governor-General and*

[1] *Infra.* [2] Page 61.

Commander-in-Chief (therein and hereinafter called "the Governor-General") in and over our Commonwealth of Australia (therein and hereinafter called "our said Commonwealth"). And we have thereby authorised and commanded our said Governor-General to do and execute in due manner all things that shall belong to his said command, and to the trust we have reposed in him, according to the several powers and authorities granted or appointed him by virtue of the said Letters Patent and of such Commission as may be issued to him under our Sign Manual and Signet, and according to such Instructions as may from time to time be given to him, under our Sign Manual and Signet, or by our Order in our Privy Council, or by us through one of our Principal Secretaries of State, and to such laws as shall hereafter be in force in our said Commonwealth. Now, therefore, we do, by these our Instructions under our Sign Manual and Signet, declare our pleasure to be as follows :—

1. Our first appointed Governor-General shall, with all due solemnity, cause our Commission, under our Sign Manual and Signet, appointing our said Governor-General, to be read and published in the presence of our Governors, or in their absence of our Lieutenant-Governors of our Colonies of New South Wales, Victoria, South Australia, Queensland, Tasmania, and Western Australia and such of the members of the Executive Council, judges, and members of the Legislatures of our said Colonies as are able to attend.

2. Our said Governor-General of our said Commonwealth shall take the oath of allegiance in the form provided by an Act passed in the session holden in the 31st and 32nd years of our reign, intituled "An Act to amend the Law relating to Promissory Oaths(1) ;" and likewise the usual oath for the due execution of the office of our Governor-General in and over our said Commonwealth, and for the due and impartial administration of justice ; which oaths our said Governor and Commander-in-Chief of our Colony of New South Wales, or, in his absence, our Lieutenant-Governor or other officer administering the Government of our said Colony, shall and he is hereby required to tender and administer unto him.

3. Every Governor-General, and every other officer appointed to administer the Government of our said Commonwealth after our said first appointed Governor-General, shall, with all due solemnity, cause our Commission, under our Sign Manual and Signet, appointing our said Governor-General, to be read and published in the presence of the Chief Justice of the High Court of Australia, or some other judge of the said court, or in the presence of the Chief Justice or some other judge of the Supreme Court of any of the States of our said Commonwealth.

4. Every Governor-General, and every other officer appointed to administer the Government of our said Commonwealth after our said first appointed Governor-General, shall take the oath of allegiance in the form provided by an Act passed in the session holden in the 31st and 32nd years of our reign, intituled "An Act to amend the Law relating to Promissory Oaths ;" and likewise the usual oath for the due execution of the office of our Governor-General in and over our said Commonwealth, and for the due and impartial administration of justice ; which oaths the Chief Justice of the High Court of Australia, or some other judge of the said court or the Chief Justice or some other judge of the Supreme Court of any of the States of our said Commonwealth, shall and he is hereby required to tender and administer unto him or them.

(1) 31 & 32 Vict., c 72.

5. And we do authorise and require our said Governor-General from time to time, by himself or by any other person to be authorised by him on that behalf, to administer to all and to every person or persons, as he shall think fit, who shall hold any office or place of trust or profit in our said Commonwealth, the said oath of allegiance, together with such other oath or oaths as may from time to time be prescribed by any laws or statutes in that behalf made and provided.

6. And we do require our said Governor-General to communicate forthwith to the members of the Executive Council for our said Commonwealth these our Instructions, and likewise all such others, from time to time, as he shall find convenient for our service to be imparted to them.

7. Our said Governor-General is to take care that all laws assented to by him in our name, or reserved for the signification of our pleasure thereon, shall, when transmitted by him, be fairly abstracted in the margins, and be accompanied, in such cases as may seem to him necessary, with such explanatory observations as may be required to exhibit the reasons and occasions for proposing such laws ; and he shall also transmit fair copies of the journals and minutes of the proceedings of the Parliament of our said Commonwealth which he is to require from the clerks, or other proper officers in that behalf of the said Parliament.

8. And we do further authorise and empower our said Governor-General, as he shall see occasion, in our name and on our behalf when any crime or offence against the laws of our Commonwealth has been committed for which the offender may be tried within our said Commonwealth, to grant a pardon to any accomplice in such crime or offence who shall give such information as shall lead to the conviction of the principal offender, or of any one of such offenders, if more than one ; and further, to grant to any offender convicted of any such crime or offence in any court, or before any judge, justice, or magistrate, within our said Commonwealth, a pardon, either free or subject to lawful conditions, or any respite of the execution of the sentence of any such offender, for such period as to our said Governor-General may seem fit, and to remit any fines, penalties, or forfeitures which may become due and payable to us. Provided always, that our said Governor-General shall not in any case, except where the offence has been of a political nature, make it a condition of any pardon or remission of sentence that the offender shall be banished from or shall absent himself from our said Commonwealth. And we do hereby direct and enjoin that our said Governor-General shall not pardon or reprieve any such offender without first receiving in capital cases the advice of the Executive Council for our said Commonwealth, and in other cases the advice of one, at least, of his Ministers ; and in any case in which such pardon or reprieve might directly affect the interests of our Empire, or of any country or place beyond the jurisdiction of the Government of our said Commonwealth our said Governor-General shall, before deciding as to either pardon or reprieve, take those interests specially into his own personal consideration in conjunction with such advice as aforesaid.

9. Except for the purpose of visiting our Territory of Papua, or any other territory now or hereafter placed under the administration of the Government of our said Commonwealth, the Governor-General shall not, upon any pretence whatever, quit our said Commonwealth without having first obtained leave from us for so doing under our Sign Manual and Signet, or through one of our Principal Secretaries of State.

STATES OF AUSTRALIA

According to the *Official Year Book of New South Wales*, 1928-9 (page 32), the constitution of that State is not framed completely in "The State Constitution Act" of 1902 and is not entirely written, but is drawn from seven diverse sources, *viz.* : certain Imperial statutes ; the Letters Patent and Instructions to the Governor ; an element of inherited English law ; some Federal statutes ; sundry State statutes ; numerous legal decisions ; and a large element of English and local convention. The general position in regard to the other States of the Commonwealth is somewhat similar—but their constitutions are not identical. Letters Patent and Instructions have, however, been issued for each State, corresponding in large measure with the subjoined documents for New South Wales.

One of the principal differences between the constitutions of the various States is in respect of the Upper House of Parliament or Legislative Council. In New South Wales, Victoria, South Australia, Western Australia and Tasmania the Legislative Council is elective, though the details of the elective basis vary, while in Queensland there is no Upper House.

UNION OF SOUTH AFRICA

Area : 472,494 *sq. miles.* *Population* : 9,589,898.

The South Africa Act, by which the Imperial Parliament prescribed the South African Constitution, was passed in 1909. Prior to that Act the territory included within this Constitution was held by four Colonies, each with a responsible government of its own.

These Colonies were Cape Colony, Natal, the Transvaal and the Orange River Colony. Each of these separate Colonies had had a distinct historical development. Indeed it might have seemed that no effective union could have been formed out of elements so disparate. It is, therefore, necessary to note the earlier developments of each of these Colonies.

Cape Colony was originally founded by Dutch colonists. In 1814 it was ceded by Holland to the British Crown. In 1854 a liberal Constitution was bestowed on the Colony. Until about 1874 its population remained predominantly Dutch, but after that time the English colonis s began to increase in numbers, and the Colcny became more fully industrialised.

Natal was originally formed by English colonists. Subsequently a number of Dutch farmers came across from Cape Colony, but Natal remained predominantly an English Colony. This fact coupled with the circumstance that Natal was cut off from the rest of South Africa by the Drakensberg, and had a sea front of its own with the important port of Durban, caused Natal to hold aloof from the other Colonies in South Africa. Natal received self-government in 1893.

Orange River Colony was a Boer Republic. It had originally been established as the Orange Free State by Dutch farmers who became dissatisfied with the government of Cape Colony and trekked north to establish a government of their own. After the South African War the Orange Free State was annexed by the British Government and given the name of the Orange River Colony. It secured responsible government as a British Colony in 1907.

The Transvaal was another Boer Republic established by Dutch farmers who trekked north. Like the Orange Free State, it also was annexed by England at the end of the South African War, and received responsible government as a British Colony in 1906.

Not only, however, were these four States of different and conflicting histories, but the very economic causes that subsequently led to the Union seemed at one time to be leading them farther and farther apart. The Transvaal developed its trade, including the important trade of the Witwatersrand, through Delagoa Bay; Natal through Durban ; Cape Colony through Cape Town. The Railways being State possessions a rate war quickly developed. This was followed by tariff difficulties. Shortly after the South African

War the four Colonies had created a Customs Union ; but this Union broke down. It was denounced by the Transvaal which desired to develop in the direction of free trade, whereas Natal and Cape Colony were disposed to develop in the direction of protection with a view to creating industrial centres at the sea ports.

Finally, there were great discrepancies in the treatment accorded to natives in the four Colonies. When it is remembered that the white population in the four Colonies in 1904 was only abut 1,000,000, whereas the native population was 4,000,000, it is apparent that a grave danger could quickly arise from divergent policies in respect to this question.

Out of the very circumstances that seemed to be driving the four Colonies as under was born the recognition of the need for union. The policy of federation had indeed been initiated as early as 1856 by Sir George Grey. It had been raised again in 1872 by Sir H. Barkly in opening the Cape Parliament. Increasing conflicts between the Dutch and English colonists, however, made such a union impossible. These conflicts culminated in the South African War. And the circumstances which have been related brought the issue of union once again prominently to the front within ten years of the cessation of that war.

Therefore in May, 1908, after the failure of the Customs Union, an intercolonial conference met at Pretoria and suggested to the Colonial Legislatures the sending of representatives to a National South African Convention charged with the duty " to consider and report on the most desirable form of South African Union and to prepare a draft Constitution." It was suggested that twelve delegates to the Convention should be appointed by Cape Colony, eight by the Transvaal, and five each by Natal and the Orange River Colony. Rhodesia was also invited to send three delegates, who would be entitled to speak but not to vote. These suggestions were approved by the Legislatures of the various Colonies, and Rhodesia also appointed delegates, though that territory did not eventually enter the Union.

Accordingly thirty-three delegates met in Durban on October 12th, 1908. One-third of these were farmers, but a large number of the delegates represented the farming interest to a greater or lesser extent. The chief figures in the Convention had during the late war been engaged in opposing armies. Moreover, the questions with which they dealt were matters of acute controversy in the various Colonies. It had therefore decided that the meetings of the Convention should be held in secret, and that the proceedings should be considered as private.

After sitting during the month of October in Durban the Convention then adjourned to Cape Town. It sat for four months with two interludes, one of a fortnight at the end to the Durban session, and one of nearly three weeks during the Cape Town session. During these intervals, however, committees of the Convention continued in session, and at the beginning of February, 1909, the Convention submitted a Draft Bill to the Colonial Parliaments.

The reception of the Draft Constitution was very different in the four Colonies. In the Transvaal the leaders of both parties, recognising the danger of re-opening the vexed questions that had been discussed in the Convention, decided that it would be unwise to attempt to disturb the balance of compro-

mise achieved in the Draft. The Draft was therefore agreed to by the Transvaal Parliament without a single amendment. In the Orange River Colony a few important amendments were made with regard to the question of equal voting rights. In the Cape Colony more serious amendments were introduced, dealing with the same question of "equal rights," and pressing the abandonment of Proportional Representation. In this Parliament certain of the delegates voted against the very provisions which they had, a few weeks before, signed in the Convention. The chief difficulty, however, was in Natal. In this Colony a number of amendments were brought forward, some of which seemed to have no other purpose than to obstruct the proceedings of the Convention, and to bring the Draft Constitution to nought. The Natal Legislature also passed an Act enabling a Referendum to be held on the question of entry into the Union.

The Convention therefore met again at Bloemfontein to consider the amendments which had been proposed. At this meeting certain changes were made in the Draft, in deference to the amendments which had been proposed; and the revised draft was signed by all the delegates on May 11th. It was then submitted again to the four Parliaments. In its revised form the Draft was accepted by the Parliaments of the Cape Colony, the Orange River Colony and the Transvaal, but the Natal Parliament regarded the question of union with suspicion. In that Colony, comprised as it was mainly of British colonists who had always stood apart from development in other parts of South Africa, a strong demand arose that the Draft should be submitted to a Referendum. Almost the entire Natal Press was opposed to the Union, and it was feared that the Referendum would reject the Draft. The Referendum, however, was taken, and the result was an overwhelming majority for Union.

Thus by June, 1909, the South African Constitution was accepted by each of the four Colonies. It was then submitted to the Imperial Parliament in London. Delegates were appointed from each of the Colonies to proceed to England to watch over the passage of the Bill. And the Bill was enacted by the British Parliament on the 20th September, 1909.

Prior to the meeting of the Constituent Convention at Durban the Prime Minister of Natal had communicated with the Prime Minister of the Australian Commonwealth with a view to information respecting the working of the Australian Constitution. As a consequence of this request a valuable memorandum was furnished from the Australian Attorney-General's Department. It dealt with a number of important matters, such as the taking over by a Federation of powers hitherto exercised by the Federated States, the creation of a central Government, the creation of a Federal Judiciary, and the importance of brevity in the wording of constitutional articles. It had, however, particular value in the matter of the distribution of functions between a Federal Government and its Federated States.

The memorandum pointed out that the Canadian Constitution had, in this critical matter, re-acted from certain developments of the American Constitution. Under the American Constitution specific powers had been assigned to Congress and residuary powers to the States. Vexed controversies had arisen respecting "State rights," which the Canadian authorities believed to be due to this arrangement, whereas the difficulties of the United States Congress had been due rather "to the fewness of its specific powers, and

to the limitations with which some of them were hedged, than to the principle of distribution." The Canadian Constitution had therefore assigned specific powers to the States and left the residuary powers to the Dominion.

In the belief of the drafters of the Australian Constitution the principle of distribution adopted by Canada was unwise. Therefore the Australian Constitution, in its turn, had adopted the contrary procedure. The legislative power as to specified subjects had been granted to the Federal Parliament and the general residue of legislative powers had been left to the States. Yet it was left open to any State to legislate on a subject reserved to the Federal Parliament, provided that the Federal Parliament had not already legislated thereon. That is to say, grants of legislative powers to the Federal Parliament were not exclusive of the powers exercised by the States. Immediately, however, the Federal Parliament desired to legislate in respect of any such subject, its legislation immediately overrode any existing State legislation.

Thus, the Australian Constitution set aside the Canadian practice, and reverted to the practice of the American model. The general effect of the memorandum was to recommend such procedure. It was pointed out that, in the assignment of specific powers to the Federal Parliament, certain qualifying conditions, exceptions, and limitations had been imposed in the wording, and that such qualification had led to difficulty in the adjudication of the courts—a result which had seemed to question the wisdom of the procedure, but which, in effect, was merely to question the wisdom of the wording. While the memorandum, therefore, made no actual recommendation, its purport was to recommend a similar procedure, together with the exercise of more care and simplicity in the wording.

Inasmuch as the proceedings of the South Africa Convention were private, it is not possible to estimate the direct bearing this memorandum had on the draft Constitution. The effect, however, can clearly be traced. For the South African Constitution is remarkable among Confederate Constitutions. Every previous Confederate Constitution had been most careful to preserve the sovereign rights of the constituent States, while carefully delimiting the scope and functions of those rights. When the previous circumstances of the four constituent States in South Africa are considered it is remarkable to note that the South African Constitution submerges the sovereignties that had previously existed.

The four contracting States, under the Constitution, ceased to be States, and became self-governing Provinces. The four State Parliaments ceased to be State Parliaments and became Provincial Councils. In previous Confederations the Constitution had in fact been a treaty in which the recognition of State rights had been formally made. The present Constitution was also a treaty between different States, but it was a treaty under which the separate rights were to all intents and purposes annulled. Certain powers are, under the Constitution, reserved to the Provincial Councils which take the place of the State Parliaments. Certain of these powers, and chiefly those of education, aroused certain criticism at the time. Yet, wise or unwise, they do not now exist by reason of antecedent right, but because they are devolved from the South African Parliament in the Constitution by which that Parliament was created.

The South African Constitution, therefore, holds an interesting place in the Constitutions of the British Commonwealth. The Canadian Constitution in 1867 had granted specific powers to the States, and left the residuary powers to the Dominion. The Australian Constitution in 1900 granted specific powers to the Dominion, and left the residuary powers to the States. The South African Constitution granted all powers, save in one or two small matters, to the Dominion, and so reduced the contracting States to the position of administrative provinces. In view of the earlier history of the four States, this was a very remarkable result.

CONSTITUTION
OF
THE UNION OF SOUTH AFRICA

1. Act of the Imperial Parliament constituting the Union—September 20, 1909.

Text in *State Papers*, Vol. CII, page 5.

Amendments

ACTS OF THE UNION PARLIAMENT :

April 25, 1911 . . . Text in *Statutes of the Union of South Africa*, 1910-11, page 616.

May 29, 1920 . . . Text in *Statutes of the Union of South Africa*, 1920, page 26.

May 15, 1925 . . . Text in *Statutes of the Union of South Africa*, 1925, page 24.

July 27, 1925 . . . Text in *Statutes of the Union of South Africa*, 1925, page 340.

February 5, 1926 . . . Text in *Statutes of the Union of South Africa*, 1926, page 2.

June 7, 1926 . . . Text in *Statutes of the Union of South Africa*, 1926, page 380.

June 8, 1926 . . . Text in *Statutes of the Union of South Africa*, 1926, page 794.

March 26, 1927 . . . Text in *Statutes of the Union of South Africa*, 1927, page 88.

June 1, 1933 . . . Text in *Statutes of the Union of South Africa*, 1933, page 132.

June 2, 1934 . . . Text in *Statutes of the Union of South Africa*, 1934, page 472.

June 22, 1934 . . . Text in *Statutes of the Union of South Africa*, 1934, page 914.

March 29, 1935 . . . Text in *Statutes of the Union of South Africa*, 1935, page 10.

May 7, 1935 . . . . Text in *Statutes of the Union of South Africa*, 1935, page 298.

May 10, 1935 . . . Text in *Statutes of the Union of South Africa*, 1935, page 528.

April 16, 1936 . . . Text in *Statutes of the Union of South Africa*, 1936, page 36.

April 21, 1937 . . . Text in *Union of South Africa Government Gazette (Extraordinary)*, April 23, 1937.

2. Act of the Union Parliament to make further Provision for the Dissolution of the Senate.—June 9, 1926.

Text in *Statutes of the Union of South Africa*, 1926, page 824.

3. Act of the Union Parliament to provide for the Declaration of the Status of the Union and for the Adoption of certain Parts of "The Statute of Westminster, 1931."—June 22, 1934.

Text in *Statutes of the Union of South Africa*, 1934, page 914.

4. Act of the Union Parliament to provide for the King's Acts as Head of the Executive and for the Use of Royal Seals in connexion therewith.—June 22, 1934.

Text in *Statutes of the Union of South Africa*, 1934, page 922.

5. Letters Patent relating to the Office of Governor-General.—February 15, 1937.

6. Royal Instructions to the Governor-General—Westminster, February 15, 1937.

....

1. Act of Parliament, 1909 (as amended to 1937).

[9 Edw. VII, c. 9.—September 20, 1909.]

Whereas it is desirable for the welfare and future progress of South Africa that the several British Colonies therein should be united under one Government in a legislative union under the Crown of Great Britain and Ireland:

And whereas it is expedient to make provision for the union of the Colonies of the Cape of Good Hope, Natal, the Transvaal, and the Orange River Colony on terms and conditions to which they have agreed by resolution of their respective Parliaments and to define the executive, legislative, and judicial powers to be exercised in the government of the Union:

And whereas it is expedient to make provision for the establishment of Provinces with powers of legislation and administration in local matters and in such other matters as may be specially reserved for provincial legislation and administration:

And whereas it is expedient to provide for the eventual admission into the Union or transfer to the Union of such parts of South Africa as are not originally included therein:

Be it therefore enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

I.—PRELIMINARY

1. The people of the Union acknowledge the sovereignty and guidance of Almighty God.

2. In this Act, unless it is otherwise expressed or implied, "heirs and successors" shall be taken to mean His Majesty's heirs and successors in the sovereignty of the United Kingdom of Great Britain and Ireland as determined by the laws relating to the succession of the Crown of the United Kingdom of Great Britain and Ireland, the words "the Union" shall be taken to mean the Union of South Africa as constituted under this Act, and the words "Houses

of Parliament," "House of Parliament," or "Parliament," shall be taken to mean the Parliament of the Union.

3. The provisions of this Act referring to the King shall extend to His Majesty's heirs and successors in the sovereignty of the United Kingdom of Great Britain and Ireland.

II.—THE UNION

4. It shall be lawful for the King, with the advice of the Privy Council, to declare by proclamation[1] that, on and after a day therein appointed, not being later than one year after the passing of this Act, the Colonies of the Cape of Good Hope, Natal, the Transvaal, and the Orange River Colony, hereinafter called "the Colonies," shall be united in a legislative union under one Government under the name of "the Union of South Africa". On and after the day appointed by such proclamation the Government and Parliament of the Union shall have full power and authority within the limits of the Colonies, but the King may at any time after the proclamation appoint a Governor-General for the Union.

5. The provisions of this Act shall, unless it is otherwise expressed or implied, take effect on and after the day so appointed.

6. The Colonies mentioned in section 4 shall become original Provinces of the Union under the names of "Cape of Good Hope," "Natal," "Transvaal" and "Orange Free State," as the case may be. The original Provinces shall have the same limits as the respective Colonies at the establishment of the Union.

7. Upon any Colony entering the Union, "The Colonial Boundaries Act, 1895" [2] and every other Act applying to any of the Colonies as being self-governing Colonies or Colonies with responsible Government, shall cease to apply to that Colony, but as from the date when this Act takes effect every such Act of Parliament shall apply to the Union.

III.—EXECUTIVE GOVERNMENT

8. [Repealed.]

9. The Governor-General shall be appointed by the King, and shall have and may exercise in the Union during the King's pleasure, but subject to this Act, such powers and functions of the King as His Majesty may be pleased to assign to him.

10. There shall be payable to the King out of the Consolidated Revenue Fund of the Union for the salary of the Governor-General an annual sum of £10,000. The salary of the Governor-General shall not be altered during his continuance in office.

11. The provisions of this Act relating to the Governor-General extend and apply to the Governor-General for the time being or such person as the King may appoint to administer the Government of the Union. The King may authorise the Governor-General to appoint any person to be his deputy within the Union during his temporary absence, and in that capacity to

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[1] The proclamation was dated December 2, 1909 (*State Papers*, Vol. CII, page 39), and appointed May 31, 1910, as the date of the legislative union.

[2] *State Papers*, Vol. LXXXVII, page 967.

exercise for and on behalf of the Governor-General during such absence all such powers and authorities vested in the Governor-General as the Governor-General may assign to him, subject to any limitations expressed or directions given by the King; but the appointment of such deputy shall not affect the exercise by the Governor-General himself of any power or function.

12. There shall be an Executive Council to advise the Governor-General in the Government of the Union, and the members of the Council shall be chosen, and summoned by the Governor-General and sworn as Executive Councillors and shall hold office during his pleasure.

13. The provisions of this Act referring to the Governor-General in Council shall be construed as referring to the Governor-General acting with the advice of the Executive Council.

14. (1) The Governor-General may appoint officers not exceeding eleven in number to administer such departments of State of the Union as the Governor-General in Council may establish; such officers shall hold office during the pleasure of the Governor-General. They shall be members of the Executive Council and shall be the King's Ministers of State for the Union. After the first general election of members of the House of Assembly, as hereinafter provided, no Minister shall hold office for a longer period than 3 months unless he is or becomes a member of either House of Parliament.

(2) Whenever any Minister of State is from any cause whatever unable to perform any of the functions of his office, the Governor-General in Council may appoint any member of the Executive Council [whether he has or has not been appointed as a Minister of State, under sub-section (1)] to act in the said Minister's stead, either generally or in the performance of any particular function.

15. The appointment and removal of all officers of the public service of the Union shall be vested in the Governor-General in Council, unless the appointment is delegated by the Governor-General in Council or by this Act or by a law of Parliament to some other authority.

16. All powers, authorities, and functions which at the establishment of the Union are in any of the Colonies vested in the Governor or in the Governor in Council, or in any authority of the Colony, shall, as far as the same continue in existence and are capable of being exercised after the establishment of the Union, be vested in the Governor-General or in the Governor-General in Council, or in the authority exercising similar powers under the Union, as the case may be, except such powers and functions as are by this Act or may by a law of Parliament be vested in some other authority.

17. The command in chief of the naval and military forces within the Union is vested in the King or in the Governor-General as his representative.

18. Save as in section 23 excepted, Pretoria shall be the seat of Government of the Union.

IV.—PARLIAMENT

19. The legislative power of the Union shall be vested in the Parliament of the Union, herein called "Parliament," which shall consist of the King, a Senate and a House of Assembly.

20. The Governor-General may appoint such times for holding the session of Parliament as he thinks fit, and may also from time to time, by proclamation or otherwise, prorogue Parliament, and may in like manner dissolve the Senate and the House of Assembly simultaneously, or the House of Assembly alone : provided that the Senate shall not be dissolved within a period of 10 years after the establishment of the Union, and provided further that the dissolution of the Senate shall not affect any senators nominated by the Governor-General in Council.

21. Parliament shall be summoned to meet not later than 6 months after the establishment of the Union.

22. There shall be a session of Parliament once at least in every year so that a period of 12 months shall not intervene between the last sitting of Parliament in one session and its first sitting in the next session.

23. Cape Town shall be the seat of the Legislature of the Union.

Senate

24. For 10 years after the establishment of the Union the constitution of the Senate shall, in respect of the original Provinces, be as follows :—

(*i*) 8 senators shall be nominated by the Governor-General in Council and for each original Province 8 senators shall be elected in the manner hereinafter provided.

(*ii*) The senators to be nominated by the Governor-General in Council shall hold their seats for 10 years. One-half of their number shall be selected on the ground mainly of their thorough acquaintance, by reason of their official experience or otherwise, with the reasonable wants and wishes of the coloured races in South Africa. If the seat of a senator so nominated shall become vacant, the Governor-General in Council shall nominate another person to be a senator, who shall hold his seat for 10 years.

(*iii*) After the passing of this Act, and before the day appointed for the establishment of the Union, the Governor of each of the Colonies shall summon a special sitting of both Houses of the Legislature, and the two Houses sitting together as one body and presided over by the Speaker of the Legislative Assembly shall elect 8 persons to be senators for the Province. Such senators shall hold their seats for 10 years. If the seat of a senator so elected shall become vacant, the Provincial Council of the Province for which such senator has been elected shall choose a person to hold the seat until the completion of the period for which the person in whose stead he is elected would have held his seat.

25. Parliament may provide for the manner in which the Senate shall be constituted after the expiration of 10 years, and unless and until such provision shall have been made—

(*i*) The provisions of the last preceding section with regard to nominated senators shall continue to have effect.

(*ii*) 8 senators for each Province shall be elected by the members of the Provincial Council of such Province together with the members of the House of Assembly elected for such Province. Such senators shall hold their seats for 10 years unless the Senate be sooner dissolved. If the seat of an elected senator shall become vacant, the members of the Provincial Council of the Province, together with the members of the House of Assembly elected for

such Province, shall choose a person to hold the seat until the completion of the period for which the person in whose stead he is elected would have held his seat. The Governor-General in Council shall make regulations for the joint election of senators prescribed in this section.

26. The qualifications of a senator shall be as follows :—

He must—

(*a*) be not less than 30 years of age ;

(*b*) be qualified to be registered as a voter for the election of members of the House of Assembly in one of the Provinces ;

(*c*) have resided for 5 years within the limits of the Union as existing at the time when he is elected or nominated, as the case may be ;

(*d*) be a person of European descent who has acquired Union nationality whether—

(*i*) by birth, or

(*ii*) by domicile as a British subject, or

(*iii*) by naturalisation, or otherwise, in terms of Act 40 of 1927(1), or of Act 14 of 1932(2).

(*e*) in the case of an elected senator, be the registered owner of immovable property within the Union of the value of not less than £500 over and above any special mortgages thereon.

For the purposes of this section, residence in, and property situated within a Colony before its incorporation in the Union shall be treated as residence in and property situated within the Union.

27. The Senate shall, before proceeding to the despatch of any other business, choose a senator to be the President of the Senate, and as often as the office of President becomes vacant the Senate shall again choose a senator to be the President. The President shall cease to hold office if he ceases to be a senator. He may be removed from office by a vote of the Senate, or he may resign his office by writing under his hand addressed to the Governor-General.

28. Prior to or during any absence of the President the Senate may choose a senator to perform his duties in his absence.

29. A senator may, by writing under his hand addressed to the Governor-General, resign his seat, which thereupon shall become vacant. The Governor-General shall as soon as practicable cause steps to be taken to have the vacancy filled.

30. The presence of at least 12 senators shall be necessary to constitute a meeting of the Senate for the exercise of its powers.

31. All questions in the Senate shall be determined by a majority of votes of senators present other than the President or the presiding senator, who shall, however, have and exercise a casting vote in the case of an equality of votes.

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(1) *State Papers*, Vol. CXXVI, page 508. (2) *Ibid.* Vol. CXXXV, page 247.

House of Assembly

32. The House of Assembly shall be composed of members directly chosen by the voters of the Union in electoral divisions delimited as hereinafter provided.

33. The number of members to be elected in the original Provinces at the first election and until the number is altered in accordance with the provisions of this Act shall be as follows :—

Cape of Good Hope	51
Natal	17
Transvaal	36
Orange Free State	17

These numbers may be increased as provided in the next succeeding section, but shall not, in the case of any original Province, be diminished until the total number of members of the House of Assembly in respect of the Provinces herein provided for reaches 150, or until a period of 10 years has elapsed after the establishment of the Union, whichever is the longer period.

34. The number of members to be elected in each Province, as provided in section 33, shall be increased from time to time as may be necessary in accordance with the following provisions :—

(*i*) In this section the expression—

" adult Union nationals " means Union nationals (both male and female) of the age of 21 years or over, but does not include members of His Majesty's regular forces on full pay, other than members of the South African Permanent Force constituted under section 1 of " The South Africa Defence Act Amendment Act, 1922 " (Act No. 22 of 1922) ;

" quota of the Union " means the quotient obtained by dividing the total number of European adult Union nationals as ascertained at the census taken in the year 1936 by the number 150.

(*ii*) In 1911, and every 5 years thereafter, till 1951 and thereafter every 10 years, a census of the European population of the Union shall be taken for the purposes of this Act.

(*iii*) After any such census the number of European adult Union nationals in each Province shall be compared with the number of European adult Union nationals as ascertained at the census of 1936, and, in the case of any Province where an increase is shown, as compared with the census of 1936, equal to the quota of the Union or any multiple thereof, the number of members allotted to such Province in the last preceding section shall be increased by an additional member or an additional number of members equal to such multiple, as the case may be.

(*iv*) Notwithstanding anything herein contained, no additional member shall be allotted to any Province until the total number of European adult Union nationals in such Province exceeds the quota of the Union multiplied by the number of members allotted to such Province for the time being, and thereupon additional members shall be allotted to such Province in respect only of such excess.

(*v*) As soon as the number of members of the House of Assembly to be elected in the original Provinces in accordance with the preceding sub-sections reaches the total of 150, such total shall not be further increased unless and until Parliament otherwise provides ; and subject to the provisions of the last preceding section the distribution of members among the Provinces shall be such that the proportion between the number of members to be elected at any time in each Province and the number of European adult Union nationals in such Province, as ascertained at the last preceding census, shall as far as possible be identical throughout the Union.

35. (1) Parliament may by law prescribe the qualifications which shall be necessary to entitle persons to vote at the election of members of the House of Assembly, but no such law shall disqualify any person (other than a native, as defined in section 1 of " The Representation of Natives Act, 1936 ") in the Province of the Cape of Good Hope who, under the laws existing in the Colony of the Cape of Good Hope at the establishment of the Union, is or may become capable of being registered as a voter from being so registered in the Province of the Cape of Good Hope by reason of his race or colour only, or disqualify any native, as so defined, who under the said Act would be or might become capable of being registered in the Cape native voter's roll instituted under that Act from being so registered, or alter the number of the members of the House of Assembly who in terms of the said Act may be elected by the persons registered in the said roll, unless the bill embodying such disqualification or alteration be passed by both Houses of Parliament sitting together, and at the third reading be agreed to by not less than two-thirds of the total number of members of both Houses. A bill so passed at such joint sitting shall be taken to have been duly passed by both Houses of Parliament.

(2) No person (other than a native as so defined) who at the passing of any such law is registered as a voter in any Province shall be removed from the register by reason only of any disqualification based on race or colour.

36. Subject to the provisions of the last preceding section, the qualifications of parliamentary voters, as existing in the several Colonies at the establishment of the Union, shall be the qualifications necessary to entitle persons in the corresponding Provinces to vote for the election of members of the House of Assembly : Provided that no member of His Majesty's regular forces on full pay shall be entitled to be registered as a voter.

37. (1) Subject to the provisions of this Act, the laws in force in the Colonies at the establishment of the Union relating to elections for the more numerous Houses of Parliament in such Colonies respectively, the registration of voters, the oaths or declarations to be taken by voters, returning officers, the powers and duties of such officers, the proceedings in connection with elections, election expenses, corrupt and illegal practices, the hearing of election petitions and the proceedings incident thereto, the vacating of seats of members, and the proceedings necessary for filling such vacancies, shall, *mutatis mutandis*, apply to the elections in the respective Provinces of members of the House of Assembly.

(2) Notwithstanding anything to the contrary in any of the said law contained, at any general election of members of the House of Assembly, all polls shall be taken on one and the same day in all the electoral divisions throughout the Union, such day to be appointed by the Governor-General in Council.

38. Between the date of the passing of this Act and the date fixed for the establishment of the Union, the Governor in Council of each of the Colonies shall nominate a judge of any of the Supreme or High Courts of the Colonies, and the judges so nominated shall, upon acceptance by them respectively of such nomination, form a joint commission, without any further appointment, for the purpose of the first division of the Provinces into electoral divisions. The High Commissioner for South Africa shall forthwith convene a meeting of such commission at such time and place in one of the Colonies as he shall fix and determine. At such meeting the commissioners shall elect one of their number as chairman of such commission. They shall thereupon proceed with the discharge of their duties under this Act, and may appoint persons in any Province to assist them or to act as assessors to the commission or with individual members thereof for the purpose of inquiring into matters connected with the duties of the commission. The commission may regulate their own procedure and may act by a majority of their number. All moneys required for the payment of the expenses of such commission before the establishment of the Union in any of the Colonies shall be provided by the Governor in Council of such Colony. In case of the death, resignation, or other disability of any of the Commissioners before the establishment of the Union, the Governor in Council of the Colony in respect of which he was nominated shall forthwith nominate another judge to fill the vacancy. After the establishment of the Union the expenses of the commission shall be defrayed by the Governor-General in Council, and any vacancies shall be filled by him.

39. The commission shall divide each Province into electoral divisions, each returning one member.

40. (1) For the purpose of such division as is in the last preceding section mentioned, the quota of each Province shall be obtained by dividing the total number of voters in the Province, as ascertained at the last registration of voters, by the number of members of the House of Assembly to be elected therein.

(2) Each Province shall be divided into electoral divisions in such a manner that each such division shall, subject to the provisions of sub-section (3) of this section, contain a number of voters, as nearly as may be, equal to the quota of the Province.

(3) The Commissioners shall give due consideration to—

(*a*) community or diversity of interests;

(*b*) means of communication;

(*c*) physical features;

(*d*) existing electoral boundaries;

(*e*) sparsity or density of population;

in such manner that, while taking the quota of voters as the basis of division, the commissioners may, whenever they deem it necessary, depart therefrom, but in no case to any greater extent than 15 per cent. more or 15 per cent. less than the quota.

41. As soon as may be after every census referred to in paragraph (11) of section 34, the Governor-General in Council shall appoint a commission consisting of three judges of the Supreme Court of South Africa to carry out any re-division which may have become necessary as between the different electoral divisions in each Province and to provide for the allocation of the number of

members to which such Province may have become entitled under the provisions of this Act. In carrying out such re-division and allocation the commission shall have the same powers and proceed upon the same principles as are by this Act provided in regard to the original division.

42. (1) The joint commission constituted under section 38, and any subsequent commission appointed under the provisions of the last preceding section, shall submit to the Governor-General in Council—

(*a*) a list of electoral divisions, with the names given to them by the commission and a description of the boundaries of every such division ;

(*b*) a map or maps showing the electoral divisions into which the provinces have been divided ;

(*c*) such further particulars as they consider necessary.

(2) The Governor-General in Council may refer to the commission for its consideration any matter relating to such list or arising out of the powers or duties of the commission.

(3) The Governor-General in Council shall proclaim the names and boundaries of the electoral divisions as finally settled and certified by the commission, or a majority thereof, and thereafter, until there shall be a re-division, the electoral divisions as named and defined shall be the electoral divisions of the Union in the Provinces.

(4) If any discrepancy shall arise between the description of the divisions and the aforesaid map or maps, the description shall prevail.

43. Any alteration in the number of members of the House of Assembly to be elected in the several Provinces, and any re-division of the Provinces into electoral divisions, shall, in respect of the election of members of the House of Assembly, come into operation at the next general election held after the completion of the re-division or of any allocation consequent upon such alteration, and not earlier.

44. The qualifications of a member of the House of Assembly shall be as follows :—

He must—

(*a*) be qualified to be registered as a voter for the election of members of the House of Assembly in one of the Provinces ;

(*b*) have resided for 5 years within the limits of the Union as existing at the time when he is elected ;

(*c*) be a person of European descent who has acquired Union nationality whether—

(*i*) by birth, or

(*ii*) by domicile as a British subject, or

(*iii*) by naturalisation, or otherwise, in terms of Act 40 of 1927 or of Act 14 of 1932.

For the purposes of this section, residence in a Colony before its incorporation in the Union shall be treated as residence in the Union.

45. Every House of Assembly shall continue for 5 years from the first meeting thereof, and no longer, but may be sooner dissolved by the Governor-General.

46. The House of Assembly shall, before proceeding to the despatch of any other business, choose a member to be the Speaker of the House, and, as often as the office of Speaker becomes vacant, the House shall again choose a member to be the Speaker. The Speaker shall cease to hold his office if he ceases to be a member. He may be removed from office by a vote of the House, or he may resign his office or his seat by writing under his hand addressed to the Governor-General.

47. Prior to or during the absence of the Speaker, the House of Assembly may choose a member to perform his duties in his absence.

48. A member may, by writing under his hand [1] addressed to the Speaker, or, if there is no Speaker, or if the Speaker is absent from the Union, to the Governor-General, resign his seat, which shall thereupon become vacant.

49. The presence of at least 30 members of the House of Assembly shall be necessary to constitute a meeting of the House for the exercise of its powers.

50. All questions in the House of Assembly shall be determined by a majority of votes of members present other than the Speaker or the presiding member, who shall, however, have and exercise a casting vote in the case of an equality of votes.

Both Houses of Parliament

51. Every senator and every member of the House of Assembly shall, before taking his seat make and subscribe before the Governor-General, or some person authorised by him, an oath or affirmation of allegiance in the following form :—

OATH

I, *A. B.*, do swear that I will be faithful and bear true allegiance to His Majesty King or Queen (as the case may be) [*here insert the name of the King or Queen for the time being*] his [*or her*] heirs and successors, according to law. So help me God.

AFFIRMATION

I, *A. B.*, do solemnly and sincerely affirm and declare that I will be faithful and bear true allegiance to His Majesty King or Queen (as the case may be) [*here insert the name of the King or Queen for the time being*], his [*or her*] heirs and successors, according to law.

52. A member of either House of Parliament shall be incapable of being chosen or of sitting as a member of the other House : Provided that every Minister of State who is a member of either House of Parliament shall have the right to sit and speak in the Senate and the House of Assembly, but shall vote only in the House of which he is a member.

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(1) By section 138 (1) of "The Electoral Act, 1918," of the Union, a telegraphic message addressed to the Speaker or Governor-General is deemed to be a writing under the hand.

53. No person shall be capable of being chosen or of sitting as a senator or as a member of the House of Assembly who—

(*a*) has been at any time convicted of any crime or offence for which he shall have been sentenced to imprisonment without the option of a fine for a term of not less than 12 months, unless he shall have received a grant of amnesty or a free pardon, or unless such imprisonment shall have expired at least 5 years before the date of his election; or

(*b*) is an unrehabilitated insolvent; or

(*c*) is of unsound mind, and has been so declared by a competent court; or

(*d*) holds any office of profit under the Crown within the Union: Provided that the following persons shall not be deemed to hold an office of profit under the Crown for the purposes of this sub-section:

(1) A Minister of State for the Union.

(2) A person in receipt of a pension from the Crown.

(3) An officer or member of His Majesty's naval or military forces on retired or half pay, or an officer or member of the naval or military forces of the Union whose services are not wholly employed by the Union.

(4) Any person who has been appointed or became a justice of the peace under section 2 of "The Justices of the Peace and Oaths Act, 1914" (Act No. 16 of 1914), and any justice of the peace appointed before the commencement of the said Act, who performs his functions as such by virtue of section 5 of that Act.

54. If a senator or member of the House of Assembly—

(*a*) becomes subject to any of the disabilities mentioned in the last preceding section; or

(*b*) ceases to be qualified as required by law; or

(*c*) fails for a whole ordinary session to attend without the special leave of the Senate or the House of Assembly, as the case may be;

his seat shall thereupon become vacant.

55. If any person who is by law incapable of sitting as a senator or member of the House of Assembly shall, while so disqualified and knowing or having reasonable grounds for knowing that he is so disqualified, sit or vote as a member of the Senate or the House of Assembly, he shall be liable to a penalty of £100 for each day on which he shall so sit or vote, to be recovered on behalf of the Treasury of the Union by action in any superior court of the Union.

56. (1) Subject to the provisions of this section, every member of the Senate and the House of Assembly (excluding Ministers receiving salary under the Crown, the President of the Senate and the Speaker of the House of Assembly) shall receive an allowance of £700 per annum.

(2) For every day during which any such member fails to attend a meeting of the House of which he is a member there shall be deducted the sum of £6: Provided that such member shall be exempted from deductions on account of such failure—

(*a*) for any day on which he attends a meeting of any committee of the House of which he is a member; and

(*b*) when his absence is due to his illness or to the summons or subpœna of a competent court (except a summons to answer a criminal charge upon which he is convicted); and

(*c*) when his absence is due to the death or seriou illness of his wife and such absence is condoned by the Sessional Committee on Standing Orders of the Senate or the Committee on Standing Rules and Orders of the House of Assembly (as the case may be); and

(*d*) in respect of any further period of absence not exceeding 25 days on which he so fails to attend during a session at which the estimates of expenditure for the ordinary administrative services of a financial year are considered.

(3) Subject to the deductions incurred, if any, the Clerk of the House concerned shall pay to every such member of the House of which he is Clerk the allowance aforesaid in monthly instalments, the first month to be reckoned from the date notified in the *Gazette* as the date on which the member concerned was nominated or elected (as the case may be).

(4) The amount of the allowances paid under this section shall be charged annually to the Consolidated Revenue Fund and the provision of this subsection shall be deemed to be an appropriation of every such amount.

57. The powers, privileges, and immunities of the Senate and of the House of Assembly and of the members and committees of each House shall, subject to the provisions of this Act, be such as are declared by Parliament, and until declared shall be those of the House of Assembly of the Cape of Good Hope and of its members and committees at the establishment of the Union.

58. Each House of Parliament may make rules and orders with respect to the order and conduct of its business and proceedings. Until such rules and orders shall have been made the rules and orders of the Legislative Council and House of Assembly of the Cape of Good Hope at the establishment of the Union shall, *mutatis mutandis*, apply to the Senate and House of Assembly respectively. If a joint sitting of both Houses of Parliament is required under the provisions of this Act, it shall be convened by the Governor-General by message to both Houses. At any such joint sitting the Speaker of the House of Assembly shall preside and the rules of the House of Assembly shall, as far as practicable, apply.

Powers of Parliament

59. Parliament shall have full power to make laws for the peace, order, and good government of the Union.

60. (1) Bills appropriating revenue or moneys or imposing taxation shall originate only in the House of Assembly. But a bill shall not be taken to appropriate revenue or moneys or to impose taxation by reason only of its containing provisions for the imposition or appropriation of fines or other pecuniary penalties.

(2) The Senate may not amend any bills so far as they impose taxation or appropriate revenue or moneys for the services of the Government.

(3) The Senate may not amend any bill so as to increase any proposed charges or burden on the people.

61. Any bill which appropriates revenue or moneys for the ordinary annual services of the Government shall deal only with such appropriation.

62. The House of Assembly shall not originate or pass any vote, resolution, address, or bill for the appropriation of any part of the public revenue or

of any tax or impost to any purpose unless such appropriation has been recommended by message from the Governor-General during the session in which such vote, resolution, address, or bill is proposed.

63. If the House of Assembly passes any bill and the Senate rejects or fails to pass it or passes it with amendments to which the House of Assembly will not agree, and if the House of Assembly in the next session again passes the bill with or without any amendments which have been made or agreed to by the Senate and the Senate rejects or fails to pass it or passes it with amendments to which the House of Assembly will not agree, the Governor-General may during that session convene a joint sitting of the members of the Senate and the House of Assembly. The members present at any such joint sitting may deliberate and shall vote together upon the bill as last proposed by the House of Assembly and upon amendments, if any, which have been made therein by one House of Parliament and not agreed to by the other ; and any such amendments which are affirmed by a majority of the total number of members of the Senate and House of Assembly present at such sitting shall be taken to have been carried, and if the bill with the amendments, if any, is affirmed by a majority of the members of the Senate and House of Assembly present at such sitting, it shall be taken to have been duly passed by both Houses of Parliament : Provided that, if the Senate shall reject or fail to pass any bill dealing with the appropriation of revenue or moneys for the public service, such joint sitting may be convened during the same session in which the Senate so rejects or fails to pass such bill.

64. When a bill is presented to the Governor-General for the King's assent, he shall declare according to his discretion, but subject to the provisions of this Act, and to such instructions as may from time to time be given in that behalf by the King, that he assents in the King's name, or that he withholds assent. The Governor-General may return to the House in which it originated any bill so presented to him, and may transmit therewith any amendments which he may recommend, and the House may deal with the recommendation.

65—6. [Repealed].

67. As soon as may be after any law shall have been assented to in the King's name by the Governor-General, the Clerk of the House of Assembly shall cause two fair copies of such law, one being in the English and the other in the Dutch language (one of which copies shall be signed by the Governor General), to be enrolled of record in the office of the Registrar of the Appellate Division of the Supreme Court of South Africa ; and such copies shall be conclusive evidence as to the provisions of every such law, and in case of conflict between the two copies thus deposited that signed by the Governor-General shall prevail.

V.—THE PROVINCES

Administrators

68. (1) In each Province there shall be a chief executive officer appointed by the Governor-General in Council, who shall be styled "the Administrator of the Province", and in whose name all executive acts relating to provincial affairs therein shall be done.

(2) In the appointment of the Administrator of any Province, the Governor-General in Council shall, as far as practicable, give preference to persons resident in such Province.

(3) Such Administrator shall hold office for a term of 5 years and shall not be removed before the expiration thereof except by the Governor-General in Council for cause assigned, which shall be communicated by message to both Houses of Parliament within one week after the removal, if Parliament be then sitting, or, if Parliament be not sitting, then within one week after the commencement of the next ensuing session.

(4) The Governor-General in Council may from time to time appoint a Deputy Administrator to execute the office and functions of the Administrator during his absence, illness, or other inability.

69. The salaries of the Administrators shall be fixed and provided by Parliament, and shall not be reduced during their respective terms of office.

Provincial Councils

70. (1) There shall be a Provincial Council in each Province consisting of the same number of members as are elected in the Province for the House of Assembly: Provided that, in any Province whose representatives in the House of Assembly shall be less than 25 in number, the Provincial Council shall consist of 25 members.

(2) Any person qualified to vote for the election of members of the Provincial Council shall be qualified to be a member of such Council.

71. (1) The members of the Provincial Council shall be elected by the persons qualified to vote for the election of members of the House of Assembly in the Province voting in the same electoral divisions as are delimited for the election of members of the House of Assembly: Provided that, in any Province in which less than 25 Members are elected to the House of Assembly, the delimitation of the electoral divisions, and any necessary re-allocation of members or adjustment of electoral divisions, shall be effected by the same commission and on the same principles as are prescribed in regard to the electoral divisions for the House of Assembly.

(2) Any alteration in the number of members of the Provincial Council, and any re-division of the Province into electoral divisions, shall come into operation at the next general election for such council held after the completion of such re-division, or of any allocation consequent upon such alteration, and not earlier.

(3) The election shall take place at such times as the Administrator shall by proclamation direct, and the provisions of section 37 applicable to the election of members of the House of Assembly shall, *mutatis mutandis*, apply to such elections.

72. The provisions of sections 53, 54 and 55, relative to members of the House of Assembly, shall, *mutatis mutandis*, apply to members of the Provincial Councils : Provided that any member of a Provincial Council who shall become a member of either House of Parliament shall thereupon cease to be a member of such Provincial Council.

73. Each Provincial Council shall continue for 5 years from the date of its first meeting, and shall not be subject to dissolution save by effluxion of time.

74. The Administrator of each Province shall by proclamation fix such times for holding the sessions of the Provincial Council as he may think fit, and may from time to time prorogue such Council : Provided that there shall be a session of every Provincial Council once at least in every year, so that a period of 12 months shall not intervene between the last sitting of the Council in one session and its first sitting in the next session.

75. The Provincial Council shall elect from among its members a chairman and may make rules for the conduct of its proceedings. Such rules shall be transmitted by the Administrator to the Governor-General, and shall have full force and effect unless and until the Governor-General in Council shall express his disapproval thereof in writing addressed to the Administrator.

76. The members of the Provincial Council shall receive such allowances as shall be determined by the Governor-General in Council.

77. There shall be freedom of speech in the Provincial Council, and no member shall be liable to any action or proceeding in any court by reason of his speech or vote in such Council.

Executive Committees

78. (1) Each Provincial Council shall at its first meeting after any general election elect from among its members, or otherwise, four persons to form with the Administrator, who shall be chairman, an Executive Committee for the Province. The members of the Executive Committee other than the Administrator shall hold office until the election of their successors in the same manner.

(2) Such members shall receive such remuneration as the Provincial Council, with the approval of the Governor-General in Council, shall determine.

(3) A member of the Provincial Council shall not be disqualified from sitting as a member by reason of his having been elected as a member of the Executive Committee.

(4) Any casual vacancy arising in the Executive Committee shall be filled by election by the Provincial Council if then in session or, if the Council is not in session, by a person appointed by the Executive Committee to hold office temporarily pending an election by the Council.

79. The Administrator and any other member of the Executive Committee of a Province, not being a member of the Provincial Council, shall have the right to take part in the proceedings of the Council, but shall not have the right to vote.

80. The Executive Committee shall on behalf of the Provincial Council carry on the administration of provincial affairs. Until the first election of members to serve on the Executive Committee such administration shall be carried on by the Administrator. Whenever there are not sufficient members of the Executive Committee to form a quorum according to the rules of the Committee, the Administrator shall, as soon as practicable, convene a meeting of the Provincial Council for the purpose of electing members to fill the vacancies, and until such election the Administrator shall carry on the administration of provincial affairs.

81. Subject to the provisions of this Act, all powers, authorities, and functions which at the establishment of the Union are in any of the Colonies vested in or exercised by the Governor or the Governor in Council, or any Minister of the Colony, shall after such establishment be vested in the Executive Committee of the Province so far as such powers, authorities, and functions relate to matters in respect of which the Provincial Council is competent to make ordinances.

82. Questions arising in the Executive Committee shall be determined by a majority of votes of the members present, and, in case of an equality of votes, the Administrator shall have also a casting vote. Subject to the approval of the Governor-General in Council, the Executive Committee may make rules for the conduct of its proceedings.

83. Subject to the provisions of any law passed by Parliament regulating the conditions of appointment, tenure of office, retirement and superannuation of public officers, the Executive Committee shall have power to appoint such officers as may be necessary, in addition to officers assigned to the Province by the Governor-General in Council under the provisions of this Act, to carry out the services entrusted to them and to make and enforce regulations for the organisation and discipline of such officers.

84. In regard to all matters in respect of which no powers are reserved or delegated to the Provincial Council, the Administrator shall act on behalf of the Governor-General in Council when required to do so, and in such matters the Administrator may act without reference to the other members of the Executive Committee.

Powers of Provincial Councils

85. Subject to the provisions of this Act and the assent of the Governor-General in Council as hereinafter provided, the Provincial Council may make ordinances in relation to matters coming within the following classes of subjects (that is to say) :—

(*i*) Direct taxation within the Province in order to raise a revenue for provincial purposes.

(*ii*) The borrowing of money on the sole credit of the Province with the consent of the Governor-General in Council and in accordance with regulations to be framed by Parliament.

(*iii*) Education, other than higher education, for a period of 5 years and thereafter until Parliament otherwise provides.

(*iv*) Agriculture to the extent and subject to the conditions to be defined by Parliament.

(*v*) The establishment, maintenance, and management of hospitals and charitable institutions.

(*vi*) Municipal institutions, divisional councils, and other local institutions having authority and functions in any area in respect of the local government of, or the preservation of public health in, that area, including any such body as is referred to in section 7 of "The Public Health Act, 1919" (Act No. 36 of 1919).

(*vii*) Local works and undertakings within the Province, other than railways and harbours and other than such works as extend beyond the borders of the Province, and subject to the power of Parliament to declare any work a national work and to provide for its construction by arrangement with the Provincial Council or otherwise.

(*viii*) Roads, outspans, ponts, and bridges, other than bridges connecting two Provinces.

(*ix*) Markets and pounds.

(*x*) Fish and game preservation.

(*xi*) The imposition of punishment by fine, penalty, or imprisonment for enforcing any law or any ordinance of the Province made in relation to any matter coming within any of the classes of subjects enumerated in this section.

(*xii*) Generally all matters which, in the opinion of the Governor-General in Council, are of a merely local or private nature in the Province.

(*xiii*) All other subjects in respect of which Parliament shall by any law delegate the power of making ordinances to the Provincial Council.

86. Any ordinance made by a Provincial Council shall have effect in and for the Province as long and as far only as it is not repugnant to any Act of Parliament.

87. A Provincial Council may recommend to Parliament the passing of any law relating to any matter in respect of which such Council is not competent to make ordinances.

88. In regard to any matter which requires to be dealt with by means of a private Act of Parliament, the Provincial Council of the Province to which the matter relates may, subject to such procedure as shall be laid down by Parliament, take evidence by means of a select committee or otherwise for and against the passing of such law, and, upon receipt of a report from such Council, together with the evidence upon which it is founded, Parliament may pass such Act without further evidence being taken in support thereof.

89. A provincial revenue fund shall be formed in every Province, into which shall be paid all revenues raised by or accruing to the Provincial Council and all moneys paid over by the Governor-General in Council to the Provincial Council. Such fund shall be appropriated by the Provincial Council by ordinance for the purposes of the provincial administration generally, or, in the case of moneys paid over by the Governor-General in Council for particular purposes, for such purposes, but no such ordinance shall be passed by the Provincial Council unless the Administration shall have first recommended to the Council to make provision for the specific service for which the appropriation is to be made. No money shall be issued from the provincial revenue fund except in accordance with such appropriation and under

warrant signed by the Administrator: Provided that, until the expiration of one month after the first meeting of the Provincial Council the Administrator may expend such moneys as may be necessary for the services of the Province.

90. When a proposed ordinance has been passed by a Provincial Council it shall be presented by the Administrator to the Governor-General in Council for his assent. The Governor-General in Council shall declare within one month from the presentation to him of the proposed ordinance that he assents thereto, or that he withholds assent, or that he reserves the proposed ordinance for further consideration. A proposed ordinance so reserved shall not have any force unless and until, within one year from the day on which it was presented to the Governor-General in Council, he makes known by proclamation that it has received his assent.

91. An ordinance assented to by the Governor-General in Council and promulgated by the Administrator shall, subject to the provisions of this Act, have the force of law within the Province. The administrator shall cause two fair copies of every such ordinance, one being in the English and the other in the Dutch language (one of which copies shall be signed by the Governor-General), to be enrolled of record in the office of the Registrar of the Appellate Division of the Supreme Court of South Africa; and such copies shall be conclusive evidence as to the provisions of such ordinance, and, in case of conflict between the two copies thus deposited, that signed by the Governor-General shall prevail.

Miscellaneous

92. (1) In each Province there shall be an Auditor of Accounts to be appointed by the Governor-General in Council.

(2) No such Auditor shall be removed from office except by the Governor-General in Council for cause assigned, which shall be communicated by message to both Houses of Parliament within one week after the removal, if Parliament be then sitting, and, if Parliament be not sitting, then within one week after the commencement of the next ensuing session.

(3) Each such Auditor shall receive out of the Consolidated Revenue Fund such salary as the Governor-General in Council, with the approval of Parliament, shall determine.

(4) Each such Auditor shall examine and audit the accounts of the Province to which he is assigned subject to such regulations and orders as may be framed by the Governor-General in Council and approved by Parliament, and no warrant signed by the Administrator authorising the issuing of money shall have effect unless countersigned by such Auditor.

93. Notwithstanding anything in this Act contained, all powers, authorities and functions lawfully exercised at the establishment of the Union by divisional or municipal councils, or any other duly constituted local authority, shall be and remain in force until varied or withdrawn by Parliament or by a Provincial Council having power in that behalf.

94. The seats of provincial government shall be—

For the Cape of Good Hope	Cape Town.
For Natal	Pietermaritzburg.
For the Transvaal	Pretoria.
For the Orange Free State	Bloemfontein.

VI.—THE SUPREME COURT OF SOUTH AFRICA

95. There shall be a Supreme Court of South Africa consisting of a Chief Justice of South Africa, the judges of appeal, and the other judges of the several divisions of the Supreme Court of South Africa in the Provinces.

96. There shall be an Appellate Division of the Supreme Court of South Africa consisting of the Chief Justice of South Africa and four judges of appeal.

97. The Governor-General in Council may, during the absence, illness, or other incapacity of the Chief Justice of South Africa, or of any judge of appeal, appoint any other judge of the Supreme Court of South Africa to act temporarily as such Chief Justice, or judge of appeal, as the case may be.

98. (1) The several Supreme Courts of the Cape of Good Hope, Natal, and the Transvaal, and the High Court of the Orange River Colony shall, on the establishment of the Union, become provincial divisions of the Supreme Court of South Africa within their respective Provinces, and shall each be presided over by a Judge-President.

(2) The court of the eastern districts of the Cape of Good Hope, the High Court of Griqualand, the High Court of Witwatersrand, and the several circuit Courts, shall become local divisions of the Supreme Court of South Africa within the respective areas of their jurisdiction as existing at the establishment of the Union.

(3) The said provincial and local divisions, referred to in this Act as "superior courts", shall, in addition to any original jurisdiction exercised by the corresponding courts of the Colonies at the establishment of the Union, have jurisdiction in all matters—

(*a*) in which the Government of the Union or a person suing or being sued on behalf of such Government is a party;

(*b*) in which the validity of any provincial ordinance shall come into question.

(4) Unless and until Parliament shall otherwise provide, the said superior courts shall, *mutatis mutandis*, have the same jurisdiction in matters affecting the validity of elections of members of the House of Assembly and Provincial councils as the corresponding courts of the Colonies have at the establishment of the Union in regard to parliamentary elections in such Colonies respectively.

99. All judges of the Supreme Courts of the Colonies, including the High Court of the Orange River Colony, holding office at the establishment of the Union shall on such establishment become judges of the Supreme Court of South Africa, assigned to the divisions of the Supreme Court in the respective Provinces, and shall retain all such rights in regard to salaries and pensions as they may possess at the establishment of the Union. The Chief Justices of the Colonies holding office at the establishment of the Union shall on such establishment become the Judges-President of the divisions of the Supreme Court in the respective Provinces, but shall so long as they hold that office retain the title of "Chief Justice" of their respective Provinces.

100. The Chief Justice of South Africa, the judges of appeal, and all other judges of the Supreme Court of South Africa to be appointed after the establishment of the Union shall be appointed by the Governor-General in Council, and shall receive such remuneration as Parliament shall prescribe, and their remuneration shall not be diminished during their continuance in office.

101. The Chief Justice of South Africa and other judges of the Supreme Court of South Africa shall not be removed from office except by the Governor-General in Council on an address from both Houses of Parliament in the same session praying for such removal on the ground of misbehaviour or incapacity.

102. Upon any vacancy occurring in any division of the Supreme Court of South Africa, other than the Appellate Division, the Governor-General in Council may, in case he shall consider that the number of judges of such court may with advantage to the public interest be reduced, postpone filling the vacancy until Parliament shall have determined whether such reduction shall take place.

103. (1) In every civil case in which, according to the law in force at the establishment of the Union, an appeal might have been made to the Supreme Court of any of the Colonies from a superior court in any of the Colonies, or from the High Court of Southern Rhodesia, the appeal shall be made only to the Appellate Division, except in cases of orders or judgments given by a single judge, upon applications by way of motion or petition or on summons for provisional sentence or judgments as to costs only, which by law are left to the discretion of the court. The appeal from any such orders or judgments shall be made to the provincial division corresponding to the court which before the establishment of the Union would have had jurisdiction in the matter. There shall be no further appeal against any judgment given on appeal by such provincial division except to the Appellate Division, and then only if such provincial division shall have given special leave to appeal: Provided that if such provincial division shall have refused special leave to appeal, the Appellate Division may, on application being made thereto, grant such special leave and may vary any order as to costs made by such provincial division in refusing such special leave.

(2) If any court grants special leave to appeal under the provisions of sub-section (1) the court may order the appellant to find security for the costs of appeal in such an amount as may be fixed by such court and may fix the time within which such security shall be found.

104. In every case, civil or criminal, in which at the establishment of the Union an appeal might have been made from the Supreme Court of any of the Colonies or from the High Court of the Orange River Colony to the King in Council, the appeal shall be made only to the Appellate Division: Provided that the right of appeal in any civil suit shall not be limited by reason only of the value of the matter in dispute or the amount claimed or awarded in such suit.

105. (1) In every case, civil or criminal, in which at the establishment of the Union an appeal might have been made from a court of resident magistrate or other inferior court to a superior court in any of the Colonies, the appeal shall be made to the corresponding division of the Supreme Court of South Africa; but there shall be no further appeal against any judgment given on appeal by such division except to the Appellate Division and then only if such corresponding division shall have given special leave to appeal: Provided that if such corresponding division shall have refused special leave to appeal, the Appellate Division may on application being made thereto grant such special leave and may vary any order as to costs made by such corresponding division in refusing such special leave.

(2) If any court grants special leave to appeal under the provisions of subsection (1) the court may order the appellant to find security for the costs of appeal in such an amount as may be fixed by such court and may fix the time within which such security shall be found.

106. There shall be no appeal from the Supreme Court of South Africa or from any division thereof to the King in Council, but nothing herein contained shall be construed to impair any right which the King in Council may be pleased to exercise to grant special leave to appeal from the Appellate Division to the King in Council. Parliament may make laws limiting the matters in respect of which such special leave may be asked, but bills containing any such limitation shall be reserved by the Governor-General for the signification of His Majesty's pleasure: Provided that nothing in this section shall affect any right of appeal to His Majesty in Council from any judgment given by the Appellate Division of the Supreme Court under or in virtue of "The Colonial Courts of Admiralty Act, 1890." (1)

107. The Chief Justice of South Africa and the judges of appeal may, subject to the approval of the Governor-General in Council, make rules for the conduct of the proceedings of the Appellate Division and prescribing the time and manner of making appeals thereto. Until such rules shall have been promulgated, the rules in force in the Supreme Court of the Cape of Good Hope at the establishment of the Union shall, *mutatis mutandis*, apply.

108. The Chief Justice and other judges of the Supreme Court of South Africa may, subject to the approval of the Governor-General in Council, frame rules for the conduct of the proceedings of the several provincial and local divisions. Until such rules shall have been promulgated, the rules in force at the establishment of the Union in the respective courts which become divisions of the Supreme Court of South Africa shall continue to apply therein.

109. The Appellate Division shall sit in Bloemfontein, but may from time to time for the convenience of suitors hold its sittings at other places within the Union.

110. (1) On the hearing of an appeal from a court consisting of a single judge, three judges of the Appellate Division shall form a quorum; and on the hearing of an appeal from a court consisting of two or more judges, four judges of the Appellate Division shall form a quorum:

Provided that if four judges of the Appellate Division sit to hear an appeal and are equally divided as to any judgment or order, or part thereof, to be given on appeal, any part of the judgment or order of the court from which the appeal is made, in respect whereof such judges are so divided, shall stand and shall be deemed to be the judgment or order of the Appellate Division:

Provided, further, that the costs arising out of any matter in respect whereof such judges are so divided shall be awarded to the party in whose favour such matter was decided by the court from which the appeal is made subject to the power of such judges, or three of them, to make any other order as to the costs which they may deem equitable.

(2) If after argument on an appeal has been heard a judge who sat at the hearing dies or retires, or becomes otherwise incapable of acting before judgment has been given on the appeal, then—

(*a*) if the argument was heard before three judges, the judgments of the two remaining judges if in agreement; or

(1) *State Papers*, Vol. LXXXII, page 672.

(*b*) if the argument was heard before four judges, the judgments of the three remaining judges if in agreement ; or

(*c*) if the argument was heard before five judges, the judgments of the four remaining judges if in agreement, or of any three of them which are in agreement ;

shall be the judgment of the court.

(3) No judge shall sit in the hearing of an appeal against a judgment or order given in a case which was heard before him.

111. The process of the Appellate Division shall run throughout the Union and all its judgments or orders shall have full force and effect in every Province and shall be executed in like manner as if they were original judgments or orders of the provincial division of the Supreme Court of South Africa in such Province.

112. The registrar of every provincial division of the Supreme Court of South Africa, if thereto requested by any party in whose favour any judgment or order has been given or made by any other division, shall, upon the deposit with him of an authenticated copy of such judgment or order and on proof that the same remains unsatisfied, issue a writ or other process for the execution of such judgment or order, and thereupon such writ or other process shall be executed in like manner as if it had been originally issued from the division of which he is registrar.

113. Any provincial or local division of the Supreme Court of South Africa to which it may be made to appear that any civil suit pending therein may be more conveniently or fitly heard or determined in another division may order the same to be removed to such other division, and thereupon such last-mentioned division may proceed with such suit in like manner as if it had been originally commenced therein.

114. The Governor-General in Council may appoint a registrar of the Appellate Division and such other officers thereof as shall be required for the proper despatch of the business thereof.

115. (1) The laws regulating the admission of advocates and attorneys to practise before any superior court of any of the Colonies shall, *mutatis mutandis*, apply to the admission of advocates and attorneys to practise in the corresponding division of the Supreme Court of South Africa.

(2) All advocates and attorneys entitled at the establishment of the Union to practise in any superior court of any of the Colonies shall be entitled to practise as such in the corresponding division of the Supreme Court of South Africa.

(3) All advocates and attorneys entitled to practise before any provisional division of the Supreme Court of South Africa shall be entitled to practise before the Appellate Division.

116. All suits, civil or criminal, pending in any superior court of any of the Colonies at the establishment of the Union shall stand removed to the corresponding division of the Supreme Court of South Africa, which shall have jurisdiction to hear and determine the same, and all judgments and orders of any superior court of any of the Colonies given or made before the establishment of the Union shall have the same force and effect as if they had been given or made by the corresponding division of the Supreme Court of South Africa. All appeals to the King in Council which shall be pending at the establishment of the Union shall be proceeded with as if this Act had not been passed.

VII.—FINANCE AND RAILWAYS

117. All revenues, from whatever source arising, over which the several Colonies have at the establishment of the Union power of appropriation, shall vest in the Governor-General in Council. There shall be formed a Railway and Harbour Fund, into which shall be paid all revenues raised or received by the Governor-General in Council from the administration of the railways, ports, and harbours, and such fund shall be appropriated by Parliament to the purposes of the railways, ports, and harbours in the manner prescribed by this Act. There shall also be formed a Consolidated Revenue Fund, into which shall be paid all other revenues raised or received by the Governor-General in Council, and such fund shall be appropriated by Parliament for the purposes of the Union in the manner prescribed by this Act, and subject to the charges imposed thereby.

118. The Governor-General in Council shall, as soon as may be after the establishment of the Union, appoint a commission, consisting of one representative from each Province, and presided over by an officer from the Imperial service, to institute an inquiry into the financial relations which should exist between the Union and the Provinces. Pending the completion of that inquiry and until Parliament otherwise provides, there shall be paid annually out of the Consolidated Revenue Fund to the Administrator of each Province—

(*a*) an amount equal to the sum provided in the estimates for education, other than higher education, in respect of the financial year, 1908-9, as voted by the Legislature of the corresponding Colony during the year 1908;

(*b*) such further sums as the Governor-General in Council may consider necessary for the due performance of the services and duties assigned to the Provinces respectively.

Until such inquiry shall be completed and Parliament shall have made other provision, the Executive Committees in the several Provinces shall annually submit estimates of their expenditure for the approval of the Governor-General in Council, and no expenditure shall be incurred by any Executive Committee which is not provided for in such approved estimates.

119. The annual interest of the public debts of the Colonies and any sinking funds constituted by law at the establishment of the Union shall form a first charge on the Consolidated Revenue Fund.

120. No money shall be withdrawn from the Consolidated Revenue Fund or the Railway and Harbour Fund except under appropriation made by law. But, until the expiration of 2 months after the first meeting of Parliament, the Governor-General in Council may draw therefrom and expend such moneys as may be necessary for the public service, and for railway and harbour administration respectively.

121. All stocks, cash, bankers' balances, and securities for money belonging to each of the Colonies at the establishment of the Union shall be the property of the Union: Provided that the balances of any funds raised at the establishment of the Union by law for any special purposes in any of the Colonies shall be deemed to have been appropriated by Parliament for the special purposes for which they have been provided.

122. Crown lands, public, works, and all property throughout the Union, movable or immovable and all rights of whatever description belonging to the several Colonies at the establishment of the Union, shall vest in the Governor-General in Council subject to any debt or liability specially charged thereon.

123. All rights in and to mines and minerals, and all rights in connection with the searching for, working for, or disposing of, minerals or precious stones, which at the establishment of the Union are vested in the Government of any of the Colonies, shall on such establishment vest in the Governor-General in Council.

124. The Union shall assume all debts and liabilities of the Colonies existing at its establishment, subject, notwithstanding any other provision contained in this Act, to the conditions imposed by any law under which such debts or liabilities were raised or incurred, and without prejudice to any rights of security or priority in respect of the payment of principal, interest, sinking fund, and other charges conferred on the creditors of any of the Colonies, and may, subject to such conditions and rights, convert, renew, or consolidate such debts.

125. All ports, harbours, and railways belonging to the several Colonies at the establishment of the Union shall from the date thereof vest in the Governor-General in Council. No railway for the conveyance of public traffic and no port, harbour, or similar work, shall be constructed without the sanction of Parliament.

126. Subject to the authority of the Governor-General in Council, the control and management of the railways, ports, and harbours of the Union shall be exercised through a Board consisting of not more than three commissioners, who shall be appointed by the Governor-General in Council, and a Minister of State, who shall be chairman. Each commissioner shall hold office for a period of 5 years, but may be re-appointed. He shall not be removed before the expiration of his period of appointment, except by the Governor-General in Council for cause assigned, which shall be communicated by message to both Houses of Parliament, within one week after the removal, if Parliament be then sitting, or, if Parliament be not sitting, then within one week after the commencement of the next ensuing session. The salaries of the commissioners shall be fixed by Parliament and shall not be reduced during their respective terms of office.

127. The railways, ports, and harbours of the Union shall be administered on business principles, due regard being had to agricultural and industrial development within the Union and promotion, by means of cheap transport, of the settlement of an agricultural and industrial population in the inland portions of all Provinces of the Union. So far as may be, the total earnings shall be not more than are sufficient to meet the necessary outlays for working, maintenance, betterment, depreciation, and the payment of interest due on capital not being capital contributed out of railway or harbour revenue, and not including any sums payable out of the Consolidated Revenue Fund in accordance with the provisions of sections 130 and 131. The amount of interest due on such capital invested shall be paid over from the Railway and Harbour Fund into the Consolidated Revenue Fund. The Governor-General in Council shall give effect to the provisions of this section as soon as and at such time as the necessary administrative and financial arrangements can be made, but in any case shall give full effect to them before the expiration of 4 years from the establishment of the Union. During such period, if the revenues accruing to the Consolidated Revenue Fund are insufficient to provide for the general service of the Union, and if the earnings accruing to the Railway and Harbour Fund are in excess of the outlays

specified herein, Parliament may by law appropriate such excess or any part thereof towards the general expenditure of the Union, and all sums so appropriated shall be paid over to the Consolidated Revenue Fund.

128. Notwithstanding anything to the contrary in the last preceding section, the Board may establish a fund out of railway and harbour revenue to be used for maintaining, as far as may be, uniformity of rates notwithstanding fluctuations in traffic.

129. All balances standing to the credit of any fund established in any of the Colonies for railway or harbour purposes at the establishment of the Union shall be under the sole control and management of the Board, and shall be deemed to have been appropriated by Parliament for the respective purposes for which they have been provided.

130. Every proposal for the construction of any port or harbour works or of any line of railway, before being submitted to Parliament, shall be considered by the Board, which shall report thereon, and shall advise whether the proposed works or line of Railway should or should not be constructed. If any such works or line shall be constructed contrary to the advice of the Board, and if the Board is of opinion that the revenue derived from the operation of such works or line will be insufficient to meet the costs of working and maintenance, and of interest on the capital invested therein it shall frame an estimate of the annual loss which, in its opinion, will result from such operation. Such estimate shall be examined by the Controller and Auditor-General, and when approved by him the amount thereof shall be paid over annually from the Consolidated Revenue Fund to the Railway and Harbour Fund: Provided that, if in any year the actual loss incurred, as calculated by the Board and certified by the controller and Auditor-General, is less than the estimate framed by the Board, the amount paid over in respect of that year shall be reduced accordingly so as not to exceed the actual loss incurred. In calculating the loss arising from the operation of any such work or line, the Board shall have regard to the value of any contributions of traffic to other parts of the system which may be due to the operation of such work or line.

131. If the Board shall be required by the Governor-General in Council or under any Act of Parliament or resolution of both Houses of Parliament to provide any services or facilities either gratuitously or at a rate of charge which is insufficient to meet the costs involved in the provision of such services or facilities, the Board shall at the end of each financial year present to Parliament an account approved by the Controller and Auditor-General, showing, as nearly as can be ascertained, the amount of the loss incurred by reason of the provision of such services and facilities, and such amount shall be paid out of the Consolidated Revenue Fund to the Railway and Harbour Fund.

132. [Repealed.]

133. In order to compensate Pietermaritzburg and Bloemfontein for any loss sustained by them in the form of diminution of prosperity or decreased rateable value by reason of their ceasing to be the seats of government of their respective Colonies, there shall be paid from the Consolidated Revenue Fund for a period not exceeding 25 years to the municipal councils of such towns a grant of 2 per cent. per annum on their municipal debts, as existing on the 31st day of January, 1909, and as ascertained by the Controller and Auditor-General. The commission appointed under section 118 shall, after due inquiry

report to the Governor-General in Council what compensation should be paid to the municipal councils of Cape Town and Pretoria for the losses, if any, similarly sustained by them. Such compensation shall be paid out of the Consolidated Revenue Fund for a period not exceeding 25 years, and shall not exceed 1 per cent. per annum on the respective municipal debts of such towns as existing on the 31st January, 1909, and as ascertained by the Controller and Auditor-General. For the purposes of this section Cape Town shall be deemed to include the municipalities of Cape Town, Green Point, and Sea Point, Woodstock, Mowbray, and Rondebosch, Claremont, and Wynberg, and any grant made to Cape Town shall be payable to the councils of such municipalities in proportion to their respective debts. One half of any such grants shall be applied to the redemption of the municipal debts of such towns respectively. At any time after the tenth annual grant has been paid to any of such towns the Governor-General in Council, with the approval of Parliament, may after due inquiry withdraw or reduce the grant to such town.

VIII.—GENERAL

134. The election of senators and of members of the Executive Committees of the Provincial Councils as provided in this Act shall, whenever such election is contested, be according to the principle of proportional representation, each voter having one transferable vote. The Governor-General in Council, or, in the case of the first election of the Senate, the Governor in Council of each of the Colonies, shall frame regulations prescribing the method of voting and of transferring and counting votes and the duties of returning officers in connection therewith, and such regulations or any amendments thereof after being duly promulgated shall have full force and effect unless and until Parliament shall otherwise provide.

135. Subject to the provisions of this Act, all laws in force in the several Colonies at the establishment of the Union shall continue in force in the respective Provinces until repealed or amended by Parliament, or by the Provincial Councils in matters in respect of which the power to make ordinances is reserved or delegated to them. All legal commissions in the several Colonies at the establishment of the Union shall continue as if the Union had not been established.

136. There shall be free trade throughout the Union, but until Parliament otherwise provides the duties of custom and of excise leviable under the laws existing in any of the Colonies at the establishment of the Union shall remain in force.

137. Both the English and Dutch[1] languages shall be official languages of the Union, and shall be treated on a footing of equality, and possess and enjoy equal freedom, rights, and privileges; all records, journals, and proceedings of Parliament shall be kept in both languages, and all bills, Acts, and notices of general public importance or interest issued by the Government of the Union shall be in both languages.

138. All persons who have been naturalised in any of the Colonies shall be deemed to be naturalised throughout the Union.

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(1) By "The Official Languages of the Union Act, 1925" of the Union the word "Dutch" was declared to include Afrikaans wherever it occurs in the present Act.

139. The administration of justice throughout the Union shall be under the control of a Minister of State, in whom shall be vested all powers, authorities, and functions which shall at the establishment of the Union be vested in the Attorneys-General of the Colonies.

140. Subject to the provisions of the next succeeding section, all officers of the public service of the Colonies shall at the establishment of the Union become officers of the Union.

141. (1) As soon as possible after the establishment of the Union, the Governor-General in Council shall appoint a Public Service Commission to make recommendations for such reorganisation and readjustment of the departments of the public service as may be necessary. The Commission shall also make recommendations in regard to the assignment of officers to the several Provinces.

(2) The Governor-General in Council may after such Commission has reported assign from time to time to each Province such officers as may be necessary for the proper discharge of the services, reserved or delegated to it, and such officers on being so assigned shall become officers of the Province. Pending the assignment of such officers, the Governor-General in Council may place at the disposal of the Provinces the services of such officers of the Union as may be necessary.

(3) The provisions of this section shall not apply to any service or department under the control of the Railway and Harbour Board, or to any person holding office under the Board.

142. After the establishment of the Union the Governor-General in Council shall appoint a permanent Public Service Commission with such powers and duties relating to the appointment, discipline, retirement, and superannuation of public officers as Parliament shall determine.

143. Any officer of the public service of any of the Colonies at the establishment of the Union who is not retained in the service of the Union or assigned to that of a Province shall be entitled to receive such pension, gratuity, or other compensation as he would have received in like circumstances if the Union had not been established.

144. Any officer of the public service of any of the Colonies at the establishment of the Union who is retained in the service of the Union or assigned to that of a Province shall retain all his existing and accruing rights, and shall be entitled to retire from the service at the time at which he would have been entitled by law to retire, and on the pension or retiring allowance to which he would have been entitled by law in like circumstances if the Union had not been established.

145. The services of officers in the public service of any of the Colonies at the establishment of the Union shall not be dispensed with by reason of their want of knowledge of either the English or Dutch language.

146. Any permanent officer of the Legislature of any of the Colonies who is not retained in the service of the Union, or assigned to that of any Province, and for whom no provision shall have been made by such Legislature, shall be entitled to such pension, gratuity, or compensation as Parliament may determine.

147. The control and administration of native affairs and of matters specially or differentially affecting Asiatics throughout the Union shall vest in the Governor-General in Council, who shall exercise all special powers in regard

to native administration hitherto vested in the Governors of the Colonies or exercised by them as supreme chiefs, and any lands vested in the Governor or Governor and Executive Council of any Colony for the purpose of reserves for native locations shall vest in the Governor-General in Council, who shall exercise all special powers in relation to such reserves as may hitherto have been exercisable by any such Governor or Governor and Executive Council, and no lands set aside for the occupation of natives which cannot at the establishment of the Union be alienated except by an Act of the colonial Legislature shall be alienated or in any way diverted from the purposes for which they are set apart except under the authority of an Act of Parliament.

148. (1) All rights and obligations under any conventions or agreements which are binding on any of the Colonies shall devolve upon the Union at its establishment.

(2) The provisions of the railway agreement between the Governments of the Transvaal, the Cape of Good Hope, and Natal, dated the 2nd of February, 1909, shall, as far as practicable, be given effect to by the Government of the Union.

IX.—NEW PROVINCES AND TERRITORIES

149. Parliament shall not—

(*a*) Alter the boundaries of any Province, divide a Province into two or more Provinces, or form a new Province out of Provinces within the Union except on the petition of the Provincial Council of every Province whose boundaries are affected thereby.

(*b*) Abolish any Provincial Council or abridge the powers conferred on Provincial Councils under section 85, except by petition to Parliament by the Provincial Council.

150. The King, with the advice of the Privy Council, may on addresses from the Houses of Parliament of the Union admit into the Union the territories administered by the British South Africa Company on such terms and conditions as to representation and otherwise in each case as are expressed in the addresses and approved by the king, and the provisions of any Order in Council in that behalf shall have effect as if they had been enacted by the Parliament of the United Kingdom of Great Britain and Ireland.

151. The King, with the advice of the Privy Council, may, on addresses from the Houses of Parliament of the Union, transfer to the Union the government of any territories, other than the territories administered by the British South Africa Company, belonging to or under the protection of His Majesty, and inhabited wholly or in part by natives, and upon such transfer the Governor-General in Council may undertake the government of such territory upon the terms and conditions embodied in the schedule to this Act.

X.—AMENDMENT OF ACT

152. Parliament may by law repeal or alter any of the provisions of this Act: Provided that no provision thereof, for the operation of which a definite period of time is prescribed, shall during such period be repealed or altered: And provided further that no repeal or alteration of the provisions contained in this section, or in sections 33 and 34 (until the number of members of the

House of Assembly has reached the limit therein prescribed, or until a period of 10 years has elapsed after the establishment of the Union, whichever is the longer period), or in sections 35 and 137, shall be valid unless the bill embodying such repeal or alteration shall be passed by both Houses of Parliament sitting together, and at the third reading be agreed to by not less than two-thirds of the total number of members of both Houses. A bill so passed at such joint sitting shall be taken to have been duly passed by both Houses of Parliament.

XI.—SUPPLEMENTARY

153. This Act may be cited as "The South Africa Act, 1909."

SCHEDULE

1. After the transfer of the government of any territory belonging to or under the protection of His Majesty, the Governor-General in Council shall be the legislative authority, and may by proclamation make laws for the peace, order, and good government of such territory: Provided that all such laws shall be laid before both Houses of Parliament within 7 days after the issue of the proclamation or, if Parliament be not then sitting, within 7 days after the beginning of the next session, and shall be effectual unless and until both Houses of Parliament shall by resolutions passed in the same session request the Governor-General in Council to repeal the same, in which case they shall be repealed by proclamation.

2. The Prime Minister shall be charged with the administration of any territory thus transferred, and he shall be advised in the general conduct of such administration by a Commission consisting of not fewer than three members with a secretary, to be appointed by the Governor-General in Council, who shall take the instructions of the Prime Minister in conducting all correspondence relating to the territories, and shall also under the like control have custody of all official papers relating to the territories.

3. The members of the Commission shall be appointed by the Governor-General in Council, and shall be entitled to hold office for a period of 10 years, but such period may be extended to successive further terms of 5 years. They shall each be entitled to a fixed annual salary, which shall not be reduced during the continuance of their term of office, and they shall not be removed from office except upon addresses from both Houses of Parliament passed in the same session praying for such removal. They shall not be qualified to become, or to be, members of either House of Parliament. One of the members of the Commission shall be appointed by the Governor-General in Council as vice-chairman thereof. In case of the absence, illness, or other incapacity of any member of the commission, the Governor-General in Council may appoint some other fit and proper person to act during such absence, illness, or other incapacity.

4. It shall be the duty of the members of the Commission to advise the Prime Minister upon all matters relating to the general conduct of the administration of, or the legislation for, the said territories. The Prime Minister, or another Minister of State nominated by the Prime Minister to be his deputy for a fixed period, or, failing such nomination, the vice-chairman, shall preside at all meetings of the Commission, and in case of an equality of votes shall have a casting vote. Two members of the commission shall form a quorum. In case the Commission shall consist of four or more members, three of them shall form a quorum.

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5. Any member of the Commission who dissents from the decision of a majority shall be entitled to have the reasons for his dissent recorded in the minutes of the Commission.

6. The members of the Commission shall have access to all official papers concerning the territories, and they may deliberate on any matter relating thereto and tender their advice thereon to the Prime Minister.

7. Before coming to a decision on any matter relating either to the administration, other than routine, of the territories, or to legislation therefor, the Prime Minister shall cause the papers relating to such matter to be deposited with the secretary to the Commission, and shall convene a meeting of the Commission for the purpose of obtaining its opinion on such matter.

8. Where it appears to the Prime Minister that the despatch of any communication or the making of any order is urgently required, the communication may be sent or order made, although it has not been submitted to a meeting of the Commission or deposited for the perusal of the members thereof. In any such case the Prime Minister shall record the reasons for sending the communication or making the order and give notice thereof to every member.

9. If the Prime Minister does not accept a recommendation of the Commission or proposes to take some action contrary to their advice, he shall state his views to the Commission, who shall be at liberty to place on record the reasons in support of their recommendation or advice. This record shall be laid by the Prime Minister before the Governor-General in Council, whose decision in the matter shall be final.

10. When the recommendations of the Commission have not been accepted by the Governor-General in Council, or action not in accordance with their advice has been taken by the Governor-General in Council, the Prime Minister, if thereto requested by the Commission, shall lay the record of their dissent from the decision or action taken and of the reasons therefor before both Houses of Parliament, unless in any case the Governor-General in Council shall transmit to the Commission a minute recording his opinion that the publication of such record and reasons would be gravely detrimental to the public interest.

11. The Governor-General in Council shall appoint a Resident Commissioner for each territory, who shall, in addition to such other duties as shall be imposed on him, prepare the annual estimates of revenue and expenditure for such territory, and forward the same to the secretary to the Commission for the consideration of the Commission and of the Prime Minister. A proclamation shall be issued by the Governor-General in Council, giving to the provisions for revenue and expenditure made in the estimates as finally approved by the Governor-General in Council the force of law.

12. There shall be paid into the Treasury of the Union all duties of customs levied on dutiable articles imported into and consumed in the territories, and there shall be paid out of the Treasury annually towards the cost of administration of each territory a sum in respect of such duties which shall bear to the total customs revenue of the Union in respect of each financial year the same proportion as the average amount of the customs revenue of such territory for the 3 completed financial years last preceding the taking effect of this Act bore to the average amount of the whole customs revenue for all the Colonies and territories included in the Union received during the same period.

13. If the revenue of any territory for any financial year shall be insufficient to meet the expenditure thereof, any amount required to make good the deficiency may, with the approval of the Governor-General in Council, and on such terms and conditions and in such manner as with the like approval may be directed or prescribed, be advanced from the funds of any other territory. In default of any such arrangement, the amount required to make good any such deficiency shall be advanced by the Government of the Union. In case there shall be a surplus for any territory, such surplus shall in the first instance be devoted to the repayment of any sums previously advanced by any other territory or by the Union Government to make good any deficiency in the revenue of such territory.

14. It shall not be lawful to alienate any land in Basutoland or any land forming part of the native reserves in the Bechuanaland Protectorate and Swaziland from the native tribes inhabiting those territories.

15. The sale of intoxicating liquor to natives shall be prohibited in the territories, and no provision giving facilities for introducing, obtaining, or possessing such liquor in any part of the territories less stringent than those existing at the time of transfer shall be allowed.

16. The custom, where it exists, of holding pitsos or other recognised forms of native assembly shall be maintained in the territories.

17. No differential duties or imposts on the produce of the territories shall be levied. The laws of the Union relating to customs and excise shall be made to apply to the territories.

18. There shall be free intercourse for the inhabitants of the territories with the rest of South Africa subject to the laws, including the pass laws, of the Union.

19. Subject to the provisions of this schedule, all revenues derived from any territory shall be expended for and on behalf of such territory: Provided that the Governor-General in Council may make special provision for the appropriation of a portion of such revenue as a contribution towards the cost of defence and other services performed by the Union for the benefit of the whole of South Africa, so, however, that that contribution shall not bear a higher proportion to the total cost of such services than that which the amount payable under paragraph 12 of this schedule from the Treasury of the Union towards the cost of the administration of the territory bears to the total customs revenue of the Union on the average of the 3 years immediately preceding the year for which the contribution is made.

20. The King may disallow any law made by the Governor-General in Council by proclamation for any territory within one year from the date of the proclamation, and such disallowance on being made known by the Governor-General by proclamation shall annul the law from the day when the disallowance is so made known.

21. The members of the Commission shall be entitled to such pensions or superannuation allowances as the Governor-General in Council shall by proclamation provide, and the salaries and pensions of such members and all other expenses of the Commission shall be borne by the territories in the proportion of their respective revenues.

22. The rights as existing at the date of transfer of officers of the public service employed in any territory shall remain in force.

23. Where any appeal may by law be made to the King in Council from any court of the territories, such appeal shall, subject to the provisions of this Act, be made to the Appellate Division of the Supreme Court of South Africa.

24. The Commission shall prepare an annual report on the territories, which shall, when approved by the Governor-General in Council, be laid before both Houses of Parliament.

25. All bills to amend or alter the provisions of this schedule shall be reserved for the signification of His Majesty's pleasure.

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2. Senate Act, 1926 (1)

[No. 54—June 9, 1926.]

Be it enacted by the King's most Excellent Majesty, the Senate and the House of Assembly of the Union of South Africa, as follows :—

1. Notwithstanding anything contained in sections 20, 24 and 25 of "The South Africa Act, 1909," (2) or in any other law—

(*a*) the Governor-General may within 120 days of any dissolution of the House of Assembly dissolve the Senate;

(*b*) upon any dissolution of the Senate, whether under section 20 of "The South Africa Act, 1909," or in terms of paragraph (*a*) of this section—

(*i*) those members of the Senate who were nominated by the Governor-General shall vacate their seats;

(*ii*) the persons nominated to fill the seats so vacated shall, subject to the provisions of "The South Africa Act, 1909," or of any other law, hold their seats for a period of 10 years from the date of their nomination or until the next succeeding dissolution of the Senate or until a change of Government has occurred, whichever be the shortest period.

A change of Government shall be considered to have occurred whenever another person than the Prime Minister for the time being becomes Prime Minister and when the Governor-General has published a notice in the *Gazette* that such change of Government has occurred.

2. This Act may be cited as "The Senate Act, 1926."

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3. Status of the Union Act, 1934 (1)

[No. 69—June 22, 1934.]

Whereas the delegates of His Majesty's Governments in the United Kingdom, the Dominion of Canada, the Commonwealth of Australia, the Dominion of New Zealand, the Union of South Africa, the Irish Free State and Newfoundland, at Imperial Conferences holden at Westminster in the years of our Lord 1926 and 1930, did concur in making the declarations and resolutions set forth in the reports of the said Conferences, and more particularly in defining the group of self-governing communities composed of Great Britain

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(1) Also in the Afrikaans langua (2) Page 72, *supra*.

and the Dominions as "autonomous communities within the British Empire, equal in status, in no way subordinate one to another in any aspect of their domestic or external affairs, though united by a common allegiance to the Crown and freely associated as members of the British Commonwealth of Nations";

And whereas the said resolutions and declarations in so far as they required legislative sanction on the part of the United Kingdom have been ratified, confirmed and established by the Parliament of the United Kingdom in an Act entitled "The Statute of Westminster, 1931" (22 Geo. V, c. 4); (1)

And whereas it is expedient that the status of the Union of South Africa as a sovereign independent State as hereinbefore defined shall be adopted and declared by the Parliament of the Union and that "The South Africa Act, 1909" (9 Edw. VII, c. 9), (2) *be amended accordingly;*

And whereas it is expedient that the said Statute of Westminster, in so far as its provisions are applicable to the Union of South Africa, and an Afrikans version thereof, shall be adopted as an Act of the Parliament of the Union of South Africa;

Now, therefore, be it declared and enacted by the King's most Excellent Majesty, the Senate and the House of Assembly of the Union of South Africa, as follows:—

1. In this Act the expression "The South Africa Act" means "The South Africa Act, 1909" (9 Edw. VII, c. 9), as amended from time to time.

2. The Parliament of the Union shall be the sovereign legislative power in and over the Union and notwithstanding anything in any other law contained, no Act of the Parliament of the United Kingdom and Northern Ireland passed after the 11th day of December, 1931, shall extend, or be deemed to extend, to the Union as part of the law of the Union, unless extended thereto by an Act of the Parliament of the Union.

3. The parts of "The Statute of Westminster, 1931," (22 Geo. V, c. 4), and the Afrikans version thereof, set forth in the schedule to this Act, shall be deemed to be an Act of the Parliament of the Union and shall be construed accordingly.

4. (1) The Executive Government of the Union in regard to any aspect of its domestic or external affairs is vested in the King, acting on the advice of his Ministers of State for the Union, and may be administered by His Majesty in person or by a Governor-General as his representative.

(2) Save where otherwise expressly stated or necessarily implied, any reference in "The South Africa Act" and in this Act to the King shall be deemed to be a reference to the King acting on the advice of his Ministers of State for the Union.

(3) The provisions of sub-sections (1) and (2) shall not be taken to affect the provisions of sections 12, 14, 20 and 45 of "The South Africa Act" and the constitutional conventions relating to the exercise of his functions by the Governor-General under the said sections.

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10. Nothing in this Act contained shall affect the provisions of section 106 of "The South Africa Act," relating to an appeal to the King in Council, or the provisions of sections 150 and 151 of the said Act.

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(1) Page 1 *supra*.

(2) Page 72 *supra*.

[The text is identical with that of "The Statute of Westminster" passed by the United Kingdom Parliament (see page 1), with the following exceptions :—

(1) Section 1 reads :

"In this Act the expression 'Dominion' means the Union of South Africa."

(2) Sections 7—10 are omitted.

(3) In section 11 the words "or State" are omitted.]

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4. Royal Executive Functions and Seals Act, 1934. (1)

[No. 70—June 22, 1934.]

Be it enacted by the King's most Excellent Majesty, the Senate and the House of Assembly of the Union of South Africa, as follows :—

1. (1) There shall be a Royal Great Seal of the Union hereinafter referred to as "the Great Seal", which shall show on the obverse the effigy of the Sovereign, with his full titles as circumscription and on the reverse the coat of arms of the Union with supporters and the inscription "Unie van Suid-Afrika" and "Union of South Africa".

(2) There shall be a Royal Signet (hereinafter referred to as "the Signet") showing the reverse of the Great Seal with the Tudor Crown for crest and the King's full title in Latin on the outer rim and the words "Unie van Suid-Afrika—Union of South Africa" on the inner rim.

(3) The Great Seal and Signet shall be of a design and size approved of by the King and the Great Seal shall show the effigy of the Sovereign in such manner and of such design as His Majesty may be pleased to approve.

2. In the case of a change in the person of the Sovereign the then existing Seals shall be used until such time as new Seals have been struck and put into use.

3. The Prime Minister of the Union or, in his absence, his deputy shall be the Keeper of the Great Seal and the Signet.

4. (1) The King's will and pleasure as Head of the Executive Government of the Union shall be expressed in writing under his Sign Manual, and every such instrument shall be countersigned by one of the King's Ministers for the Union.

(2) The King's Sign Manual shall furthermore be confirmed by the Great Seal on all royal proclamations and he may, by proclamation, prescribe from time to time which other public instruments bearing his Sign Manual shall pass either the Great Seal or the Signet.

(3) The Keeper of the Seals shall affix either the Great Seal or the Signet, as the case may be, to any instrument bearing the King's Sign Manual and the countersignature of one of His Majesty's Ministers of State for the Union and required to pass either the Great Seal or the Signet.

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(1) Also in the Afrikaans language.

(4) The provisions of this section shall not affect the exercise of the powers under sections 12, 14, 20 and 25 of "The South Africa Act, 1909", (1) by the King or the Governor-General.

5. (1) The Governor-General in Council may by regulation provide for the making of wafer seals, representing the Great Seal, of such material as he may deem suitable and prescribe the size of the cast to be used for that purpose.

(2) The wafer seals made in pursuance of the provisions of sub-section (1) shall be kept by the Keeper of the Great Seal and may be used by him for sealing instruments which are required to pass the Great Seal, and instruments to which such wafer seals have been affixed shall be deemed to be sufficiently sealed in terms of this Act.

6. (1) Whenever for any reason the King's signature to any instrument requiring the King's Sign Manual cannot be obtained or whenever the delay involved in obtaining the King's signature to any such instrument in the ordinary course would, in the opinion of the Governor-General in Council, either frustrate the object thereof, or unduly retard the despatch of public business, the Governor-General shall, subject to such instructions as may, from time to time, in that behalf, be given by the King on the advice of his Ministers of State for the Union, execute and sign such instrument on behalf of His Majesty and an instrument so executed and signed by the Governor-General and countersigned by one of the King's Ministers of the Union shall be of the same force and effect as an instrument signed by the King.

(2) The Governor-General's signature on such an instrument shall be confirmed by his Great Seal of the Union and a resolution of the Governor-General in Council shall be the necessary authority for affixing the same.

7. In the absence of any Act of the Parliament of the Union providing otherwise, the powers of the King to be exercised by His Majesty in Council or by Order in Council, under Acts of the Parliament of the United Kingdom passed prior to the commencement of "The Statute of Westminster, 1931,"(2) and extending to the Union as part of the law of the Union shall, in respect of the Union, after the commencement of this Act, be exercised respectively by the Governor-General in Council or by him by proclamation in the *Gazette* unless the Governor-General in Council decide that the exigencies of the case require that the procedure prescribed by such Acts be followed: Provided that the King in Council shall in the latter case act or purport to act in respect of the Union only at the request of the Prime Minister of the Union duly conveyed and it be expressly declared in the instrument containing the King's pleasure that the Union has requested and consented to the King in Council so acting in respect of the Union.

8. The powers vested in, or duties imposed on, the Lord Chancellor, a Secretary of State, a Commissioner of the Treasury, the Treasury, the Admiralty, the Board of Trade, or any other functionary or authority of the United Kingdom under any Act of the Parliament of the United Kingdom referred to in section 7, or under any rule, order or regulation framed thereunder shall after the commencement of this Act, in respect of the Union, be vested in or performed by such Minister, Department of State, functionary or authority in the Union as the Governor-General in Council may by proclamation in the *Gazette* designate.

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(1) Page 72, *supra*.

(2) Page 1 *supra*.

9. Sections 7 and 8 shall not apply to appeals to the King in Council under the provisions of section 106 of " The South Africa Act, 1909."

10. This Act shall be known as " The Royal Executive Functions and Seals Act, 1934," and shall come into operation on a date (1) to be fixed by the Governor-General by proclamation in the *Gazette*.

5. Letters Patent, 1937.

George VI, by the Grace of God of Great Britain, Ireland and the British dominions beyond the Seas King, Defender of the Faith, Emperor of India; Acting on the advice of our Ministers of State for the Union of South Africa.

To all to whom these presents shall come, Greeting!

Whereas by an Act of Parliament of the United Kingdom of Great Britain and Ireland, passed on the 20th day of September 1909,(2) in the 9th year of the reign of His late Majesty King Edward VII, intituled: " An Act to constitute the Union of South Africa ", it was enacted that it should be lawful for the King, with the advice of His Majesty's Privy Council, to declare by proclamation that, on and after a day therein appointed, not later than one year after the passing of that Act, the Colonies of the Cape of Good Hope, Natal, the Transvaal, and the Orange River Colony (hereinafter called " the Colonies "), should be united in a legislative union under one Government under the name of " the Union of South Africa ", and that on and after the day appointed by such proclamation the Government and Parliament of the Union should have full power and authority within the limits of the Colonies, but that the King might at any time after the proclamation appoint a Governor-General for the Union;

And whereas His late Majesty King Edward VII did on the 2nd day of December, 1909,(3) with the advice of his Privy Council, declare by proclamation that on and after the 31st day of May, 1910, the Colonies should be united into a legislative union under one Government under the name of " the Union of South Africa ";

And whereas by the said Act it was further enacted that the Governor-General shall be appointed by the King, and shall have and may exercise in the Union during the King's pleasure, but subject to that Act, such of the King's powers and functions as His Majesty may be pleased to assign to him, and that the provisions of that Act relating to the Governor-General shall extend and apply to the Governor-General for the time being, or such person as the King may appoint to administer the Government of the Union;

And whereas it is deemed desirable to revoke the Letters Patent, passed by His late Majesty King Edward VII, under the Great Seal of the United Kingdom, on the 29th day of December, 1909,(4) and relating to the office of the Governor-General of our Union of South Africa, and to substitute new provisions therefor;

Now know ye that we do by these presents declare our will and pleasure as follows:—

1. The Governor-General of our Union of South Africa (hereinafter called " the Union ") shall be appointed by Commission under our Sign Manual and Signet of the Union of South Africa.

(1) The date fixed was December 3, 1934.
(2) Page 72, *supra*.
(3) *State Papers*. Vol. CU, page 39
(4) *Statutory Rules and Orders*, 1910, page 864.

And we do hereby authorise and command our said Governor-General to do and execute, in due manner, all things that shall belong to his said office, and to the trust we have reposed in him, according to the several powers and authorities granted or appointed him by virtue of "The South Africa Act, 1909," or of such other laws as are or shall hereafter be in force in the Union, of these present Letters Patent and of such Commission as may be issued to him under our Sign Manual and Signet of the Union of South Africa, and according to such Instructions as may from time to time be given to him under our Sign Manual and Signet aforesaid.

2. The Governor-General may on our behalf exercise all powers under "The South Africa Act, 1909", or otherwise, in respect of the summoning, proroguing, or dissolving the Parliament of the Union.

3. The command-in-chief of the naval and military forces vested in us by "The South Africa Act, 1909", is hereby assigned to the Governor-General as our representative.

4. The Governor-General may, on our behalf, exercise our royal prerogative of mercy.

5. There shall be a Great Seal of and for the Union, which the Governor-General shall keep and use for sealing all things whatsoever that shall pass his said Great Seal.

6. In the event of the death, incapacity, removal, or absence from the Union of the Governor-General, all the powers and authorities herein granted to him shall, until our further pleasure is signified therein, be vested in such person as may be appointed by us under our Sign Manual and Signet aforesaid to administer the Government of the Union, and in case there shall be no person within the Union so appointed by us, then in the Chief Justice of South Africa for the time being, or in case of the death, removal, incapacity, or absence from the Union of the said Chief Justice, then in the senior judge of the Supreme Court of South Africa then residing in the Union, and not being under incapacity;

Provided that no such powers or authorities shall vest in such person until he shall have taken the oaths appointed to be taken by the Governor-General of the Union, and in the manner provided by the Instructions[1] accompanying these our Letters Patent;

And provided further that the senior judge aforesaid shall administer the Government of the Union in lieu of the Chief Justice only until a successor shall have been appointed to a Chief Justice deceased or removed from office, or until the Chief Justice shall no longer be under incapacity or have returned to the Union, and such Chief Justice shall have actually assumed the administration of the Government of the Union.

The temporary absence of the Governor-General from the Union for any period not exceeding 30 days, and for an additional period of 14 days specially sanctioned by us, for the purpose of visiting a neighbouring colony, territory or State shall not be deemed absence from the Union within the meaning of these our Letters Patent, and the Governor-General may continue to exercise all and every the powers vested in him as if he were actually within the Union.

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[1] Page 110 *infra*.

7. Whenever the Governor-General shall be temporarily absent from the Union for a short period, he may, in every such case, by an instrument under his Great Seal of the Union, appoint any person to be his deputy during such temporary absence, and in that capacity to exercise and perform for and on behalf of the Governor-General during such absence, but no longer, all such powers and authorities vested in the Governor-General, as shall in such instrument be specified and limited, but no others. Every such deputy shall conform to and observe all such instructions as the Governor-General shall from time to time address to him for his guidance; Provided, nevertheless, that by the appointment of a deputy, as aforesaid, the power and authority of the Governor-General shall not be abridged, altered, or in any way affected, otherwise than we may at any time hereafter think proper to direct.

Provided further that, if any such deputy shall have been duly appointed, it shall not be necessary during the continuance in office of such deputy for any person to assume the Government of the Union as administrator thereof.

8. And we do hereby require and command all our Ministers and officers, civil and military, and all other inhabitants of the Union, to be obedient, aiding, and assisting unto the Governor-General, or, in the event of his death, incapacity or absence, to such person as may, from time to time, under the provisions of these our Letters Patent, administer the Government of the Union.

9. And we do hereby reserve to ourselves, our heirs, and successors, full powers and authority from time to time to revoke, alter, or amend these our Letters Patent as to us or to them shall seem meet.

10. These our Letters Patent shall be proclaimed in the *Government Gazette* of the Union and shall come into operation on the 1st day of March, 1937, whereupon the Letters Patent passed by His late Majesty King Edward VII, on the 29th day of December, 1909, shall, without prejudice to anything lawfully done thereunder, be revoked.

Given under our hand at Westminster, this 15th day of February in the year of our Lord 1937 and in the 1st year of our reign.

Countersigned and confirmed by the Royal Great Seal of the Union, according to law, this 11th day of March in the year of our Lord 1937.

J. B. M. HERTZOG

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6. Royal Instructions 1937.

GEORGE R. I.

TO OUR GOVERNOR-GENERAL OF OUR UNION OF SOUTH AFRICA OR, IN HIS ABSENCE, TO THE OFFICER ADMINISTERING THE GOVERNMENT OF THE UNION.

Whereas by certain Letters Patent bearing even date herewith, (1) *we have authorised and commanded the Governor-General of our Union of South Africa (hereinafter called "the Union") to do and execute in due manner all things that*

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(1) Page 108, *supra*

shall belong to his said office, and to the trust we have reposed in him, according to the several powers and authorities granted or appointed him by virtue of "The South Africa Act, 1909," (1) *or of such other laws as are or shall hereafter be in force in the Union, of the said Letters Patent and of such Commission as may be issued to him under our Sign Manual and Signet of the Union of South Africa, and according to such Instructions as may from time to time be given to him, under our Sign Manual and Signet aforesaid;*

Now, therefore, we do by these our Instructions under our Sign Manual and Signet aforesaid declare our pleasure to be as follows:—

1. Every Governor-General of the Union shall, with all due solemnity, cause our Commission, under our Sign Manual and Signet, appointing him to be Governor-General to be read and published in the presence of the Chief Justice of South Africa, or some other judge of the Supreme Court of South Africa, and of such members of the Executive Council for the Union as are able to attend.

2. Every Governor-General and every other officer appointed to administer the Government of the Union shall take an oath or affirmation of allegiance and an oath or affirmation of office in the following forms:—

Oaths

"I....., do swear that I will be faithful and bear true allegiance to His (Her) Majesty (here insert the name of the King or Queen for the time being), his (her) heirs and successors, according to law. So help me God."

"I ....., do swear that I will well and truly serve His (Her) Majesty (here insert the name of the King or Queen for the time being) in the office of (here insert the description of the office). So help me God.''

Affirmations

"I .....do solemnly and sincerely affirm and declare that I will be faithful and bear true allegiance to His (Her) Majesty (here insert the name of the King or Queen for the time being), his (her) heirs and successors, according to law."

"I ....., do solemnly and sincerely affirm and declare that I will well and truly serve His (Her) Majesty (here insert the name of the King or Queen for the time being) in the office of (here insert the description of the office)".

The oath or affirmation shall be administered by the Chief Justice of South Africa, or some other judge of the Supreme Court of South Africa who is hereby required to administer the same.

3. And we do authorise and require the Governor-General, from time to time, by himself or by any other person to be authorised by him in that behalf, to administer to any person chosen as an Executive Councillor the said oath or affirmation of allegiance, together with such other oath or affirmation of fidelity and office as he may think fit or may be prescribed by law.

(1) Page 72, *supra*.

4. And we do hereby direct and enjoin that the Governor-General in the exercise of our royal prerogative of mercy shall not pardon, grant remission to, or reprieve any offender without receiving, in cases other than capital cases, the advice of one, at least, of his Ministers; while whenever any offender shall have been condemned to suffer death by the sentence of any court, no such pardon, remission or reprieve shall be granted unless the advice of the Executive Council shall have been obtained by the Governor-General. In the latter case, the Governor-General shall submit to the Executive Council any report that may have been made by the judge who tried the case, and whenever it appears advisable to do so, take measures to invite the attendance of such judge at the Council.

5. Whenever the Governor-General intends visiting some neighbouring colony, territory or State for a period not exceeding one month he shall inform the Executive Council in writing of his intended absence. In all other cases the Governor-General shall not quit the Union without having first obtained leave from us for so doing under our Sign Manual and Signet aforesaid.

6. The Instructions issued by His late Majesty King Edward VII to the Governor-General and Commander-in-Chief in and over the Union of South Africa and dated the 29th day of December, 1909, are hereby repealed without prejudice to anything lawfully done thereunder.

Given under our hand at Westminster, this 15th day of February in the year of our Lord 1937 and in the 1st year of our reign.

Countersigned and confirmed by the Royal Signet of the Union, according to law, on this 11th day of March in the year 1937.

J. B. M. HERTZOG.

SOUTH -WEST AFRICA MANDATED TERRITORY

The Territory of South-West Africa is administered by the Union of South Africa, under a mandate dated the 17th December, 1920 (1). The constitution of the Territory is based on an Act of the Union (No. 42 of 1925), (2) which was amended by Act No. 22 of 1927(3) and Act No. 38 of 1931 (4), and under which provision is made for the appointment of an Administrator and the establishment of an Executive Committee, an Advisory Council, and a Legislative Assembly, of which six members are to be appointed by the Administrator, the remainder being elected.

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(1) *State papers*, Vol. CXIII, page 1109. It is similar, *mutatis mutandis*, to the mandate for Samoa: see page 137.
(2) *Ibid.*, Vol. CXXI, page 687.
(3) *Ibid.*, Vol. CXXVI, page 502.
(4) *Ibid.*, Vol. CXXXIV, page 196.

IRELAND (EIRE)

Area : 17,024,485 *acres.* *Population* : 2,949,713
(Exclusive of larger rivers, lakes and tideways). *(Provisional figures of 1943).*

Introduction

Ireland's position *vis-a-vis* the British Commonwealth of Nations is peculiar. The present Constitution of Ireland came into force on December 29, 1937, and next day His Majesty's Government issued a statement in the following terms :—

> " His Majesty's Government in the United Kingdom have considered the position created by the new Constitution which was approved by the Parliament of the Irish Free State in June 1937, and came into force on December 29th.
>
> " They are prepared to treat the new Constitution as not effecting a fundamental alteration in the position of the Irish Free State—in future to be described under the new Constitution as ' Eire ' or ' Ireland '—as a member of the British Commonwealth of Nations.
>
> " His Majesty's Government in the United Kingdom have ascertained that His Majesty's Government in Canada, the Commonwealth of Australia, New Zealand and the Union of South Africa are also prepared so to treat the new Constitution. "

In other words, the Governments of the United Kingdom and of the Dominions of Canada, Australia, New Zealand, and South Africa still recognize Ireland as a member of the British Commonwealth. Premier De Valera's views on the subject are best stated in his own words. In the course of a speech on July 17, 1945, in the Dáil Eireann, he said :

> " The position, as I conceive it to be, is this : we are an independent republic, associated as a matter of our external policy with the States of the British Commonwealth. To mark this association, we avail ourselves of the procedure of the External Relations Act of 1938 just quoted, by which the King recognized by the States of the British Commonwealth therein named acts for us, under advice, in certain specified matters in the field of our external relations.
>
> And now, to Deputy Dillon's second question—are we or are we not a member of the British Commonwealth ? That is a question for which the material necessary for a conclusive answer is not fully available. It depends on what the essential element is in the constitution of the British Commonwealth.
>
> The British Commonwealth claims to be an elastic, growing, developing organism and the statesmen of the Commonwealth have, I think, adopted the view of Joseph de Maistre that ' In all political systems there are relationships which it is wiser to leave undefined '. "

Thus we have here an interesting example of a State which its own Premier claims to be an independent republic but which the United Kingdom and the Dominions treat as a member of the British Commonwealth.

The Constitution presents certain other striking features :—

(1) " Responsible government " is prescribed by an express provision of the Constitution [Article 28 (4)], whereas in the other parts of the British Commonwealth, this rests on a convention.

(2) The principle of proportional representation by the method of the single transferable vote is applied to the widest possible extent.

(3) The application of the principle of functional representation in the constitution of the Senate (Seanad Eireann) is of great interest.

(4) The Council of State, which is a kind of Privy Council, has no precise parallel in the governmental systems of other countries. The President of the Irish Free State is required by the Constitution to act after consultation with the Council of State in the following matters :

(*a*) The convening of a meeting of either or both of the Houses of the Parliament (Oireachtas) [Article 13 (2) 3°].

(*b*) The delivery of an address or message to the nation or the Houses of the Parliament (Oireachtas) on any matter of national or public importance [Article 13 (7)].

(*c*) Abridgment of the time for the consideration of bills by the Upper House (Seanad Eireann) [Article 24 (1)].

(*d*) Reference of a Bill to the Supreme Court for its opinion as to whether it is repugnant to the Constitution [Article 26 (1) 1°].

(*e*) Reference of a Bill to the people prayed for by a joint petition of a majority of the members of the Upper House (Seanad Eireann) and not less than one-third of the members of the Lower House (Dáil Eireann) [Article 27 (3)].

Further, the Constitution provides for a Commission composed of the Chief Justice and the Chairmen of the two Houses of the Parliament to perform the duties of the President, whenever the office falls vacant or the President is unable to discharge his duties. The Council of State is empowered to make any additional provisions which may be found necessary for the exercise and performance of the powers and functions vested in the President in any unforeseen contingency [Article 14 (4)].

(5) Section 45 entitled " Directive Principles of Social Policy " has given rise to two types of Fundamental Rights, first, those that are to be taken cognisance of and enforced by courts of law, and, secondly, those that are intended to be merely directions to the Legislature and not intended to be enforced by the Courts.

(6) The President is empowered to refer any bill, other than a money bill, or a bill for amending the Constitution, or a bill proposed to meet a public emergency, to the Supreme Court for its opinion regarding its constitutionality. If the decision of the Supreme Court is in the negative he is directed to decline to sign such a bill [Article 26].

(7) At every general election the Chairman of the Lower House (Dáil Eireann) immediately before the dissolution of that chamber is deemed to have been returned to it without any actual election being held [Article 16 (6)].

CONSTITUTION
OF
IRELAND (EIRE)

1. Act of the Oireachtas to provide for the Exercise of Executive Authority in matters of External Relations.—December 12, 1936.

2. Constitution.—Approved by Plebiscite, July 1, 1937. Entered into operation, December 29, 1937.

1. Executive Authority (External Relations) Act, 1936.

Be it enacted by the Oireachtas of Saorstát Eireann as follows :—

1. (1) The diplomatic representatives of Saorstát Eireann in other countries shall be appointed on the authority of the Executive Council.

(2) The consular representatives of Saorstát Eireann in other countries shall be appointed by or on the authority of the Executive Council.

2. Every international agreement concluded on behalf of Saorstát Eireann shall be concluded by or on the authority of the Executive Council.

3. (1) It is hereby declared and enacted that, so long as Saorstát Eireann is associated with the following nations, that is to say, Australia, Canada, Great Britain, New Zealand, and South Africa, and so long as the King recognised by those nations as the symbol of their co-operation continues to act on behalf of each of those nations (on the advice of the several Governments thereof) for the purposes of the appointment of diplomatic and consular representatives and the conclusion of international agreements, the King so recognised may, and is hereby authorised to, act on behalf of Saorstát Eireann for the like purposes as and when advised by the Executive Council so to do.

(2) Immediately upon the passing of this Act, the instrument of abdication executed by His Majesty King Edward VIII on the 10th day of December, 1936 (a copy whereof is set out in the schedule to this Act), shall have effect according to the tenor thereof and His said Majesty shall, for the purposes of the foregoing sub-section of this section and all other (if any) purposes, cease to be King, and the King for those purposes shall henceforth be the person who, if His said Majesty had died on the 10th day of December, 1936, unmarried would for the time being be his successor under the law of Saorstát Eireann.

4. This Act may be cited as " The Executive Authority (External Relations) Act, 1936 ".

SCHEDULE

* * *

2. Constitution, 1937. [1]

In the name of the Most Holy Trinity, from Whom is all authority and to Whom, as our final end, all actions both of men and States must be referred,

We, the people of Eire,

Humbly acknowledging all our obligations to our Divine Lord, Jesus Christ, Who sustained our fathers through centuries of trial,

[1] Also in the Irish language.

Gratefully remembering their heroic and unremitting struggle to regain the rightful independence of our nation,

And seeking to promote the common good, with due observance of prudence, justice and charity, so that the dignity and freedom of the individual may be assured true social order attained, the unity of our country restored, and concord established with other nations,

Do hereby adopt, enact, and give to ourselves this constitution.

THE NATION

1. The Irish nation hereby affirms its inalienable, indefeasible, and sovereign right to choose its own form of Government, to determine its relations with other nations, and to develop its life, political, economic and cultural, in accordance with its own genius and traditions.

2. The national territory consists of the whole island of Ireland, its islands and the territorial seas.

3. Pending the reintegration of the national territory, and without prejudice to the right of the Parliament and Government established by this constitution to exercise jurisdiction over the whole of that territory, the laws enacted by that Parliament shall have the like area and extent of application as the laws of Saorstát Eireann and the like extraterritorial effect.

THE STATE

4. The name of the State is " Eire, " or, in the English language, " Ireland. "

5. Ireland is a sovereign, independent, democratic State.

6. (1) All powers of government, legislative, executive and judicial, derive, under God, from the people, whose right it is to designate the rulers of the State and, in final appeal, to decide all questions of national policy, according to the requirements of the common good.

(2) These powers of government are exercisable only by or on the authority of the organs of State established by this constitution.

7. The national flag is the tricolour of green, white and orange.

8. (1) The Irish language as the national language is the first official language.

(2) The English language is recognised as a second official language.

(3) Provision may, however, be made by law for the exclusive use of either of the said languages for any one or more official purposes, either throughout the State or in any part thereof.

9. (1) 1° On the coming into operation of this constitution any person who was a citizen of Saorstát Eireann immediately before the coming into operation of this constitution shall become and be a citizen of Ireland.

2° The future acquisition and loss of Irish nationality and citizenship shall be determined in accordance with law.

3° No person may be excluded from Irish nationality and citizenship by reason of the sex of such person.

(2) Fidelity to the nation and loyalty to the State are fundamental political duties of all citizens.

10. (1) All natural resources, including the air and all forms of potential energy within the jurisdiction of the Parliament and Government established

by this constitution and all royalties and franchises within that jurisdiction belong to the State, subject to all estates and interests therein for the time being lawfully vested in any person or body.

(2) All land and all mines, minerals and waters which belonged to Saorstát Eireann immediately before the coming into operation of this constitution belong to the State to the same extent as they then belonged to Saorstát Eireann.

(3) Provision may be made by law for the management of the property which belongs to the State by virtue of this article and for the control of the alienation, whether temporary or permanent, of that property.

(4) Provision may also be made by law for the management of land, mines, minerals and waters acquired by the State after the coming into operation of this constitution and for the control of the alienation, whether temporary or permanent, of the land, mines, minerals and waters so acquired.

11. All revenues of the State from whatever source arising shall, subject to such exception as may be provided by law, form one fund, and shall be appropriated for the purposes and in the manner and subject to the charges and liabilities determined and imposed by law.

THE PRESIDENT

12. (1) There shall be a President of Ireland (*Uachtarán nah Eireann*) hereinafter called " the President, " who shall take precedence over all other persons in the State and who shall exercise and perform the powers and functions conferred on the President by this constitution and by law.

(2) 1° The President shall be elected by direct vote of the people.

2° Every citizen who has the right to vote at an election for members of Dáil Eireann shall have the right to vote at an election for President.

3° The voting shall be by secret ballot and on the system of proportional representation by means of the single transferable vote.

(3) 1° The President shall hold office for 7 years from the date upon which he enters upon his office, unless before the expiration of that period he dies, or resigns, or is removed from office, or becomes permanently incapacitated, such incapacity being established to the satisfaction of the Supreme Court consisting of not less than five judges.

2° A person who holds, or who has held, office as President, shall be eligible for re-election to that office once, but only once.

3° An election for the office of President shall be held not later than, and not earlier than the 60th day before, the date of the expiration of the term of office of every President, but in the event of the removal from office of the President or of his death, resignation, or permanent incapacity established as aforesaid, an election for the office of President shall be held within 60 days after such event.

(4) 1° Every citizen who has reached his 35th year of age is eligible for election to the office of President.

2° Every candidate for election, not a former or retiring President, must be nominated either by—

(*i*) not less than twenty persons, each of whom is at the time a member of one of the Houses of the Oireachtas ; or

(*ii*) by the Councils of not less than four administrative counties (including county boroughs) as defined by law.

3° No person and no such Council shall be entitled to subscribe to the nomination of more than one candidate in respect of the same election.

4° Former or retiring Presidents may become candidates on their own nomination.

5° Where only one candidate is nominated for the office of President it shall not be necessary to proceed to a ballot for his election.

(5) Subject to the provisions of this article, elections for the office of President shall be regulated by law.

(6) 1° The President shall not be a member of either House of the Oireachtas.

2° If a member of either House of the Oireachtas be elected President, he shall be deemed to have vacated his seat in that House.

3° The President shall not hold any other office or position of emolument.

(7) The first President shall enter upon his office as soon as may be after his election, and every subsequent President shall enter upon his office on the day following the expiration of the term of office of his predecessor or as soon as may be thereafter or, in the event of his predecessor's removal from office, death, resignation or permanent incapacity established as provided by section (3) hereof, as soon as may be after the election.

(8) The President shall enter upon his office by taking and subscribing publicly, in the presence of members of both Houses of the Oireachtas, of judges of the Supreme Court and of the High Court, and other public personages, the following declaration :—

" In the presence of Almighty God I.....do solemnly and sincerely promise and declare that I will maintain the constitution of Ireland and uphold its laws, that I will fulfil my duties faithfully and conscientiously in accordance with the constitution and the law, and that I will dedicate my abilities to the service and welfare of the people of Ireland. May God direct and sustain me. "

(9) The President shall not leave the State during his term of office save with the consent of the Government.

(10) 1° The President may be impeached for stated misbehaviour.

2° The charge shall be preferred by either of the Houses of the Oireachtas, subject to and in accordance with the provisions of this section.

3° A proposal to either House of the Oireachtas to prefer a charge against the President under this section shall not be entertained unless upon a notice of motion in writing signed by not less than thirty members of that House.

4° No such proposal shall be adopted by either of the Houses of the Oireachtas save upon a resolution of that House supported by not less than two-thirds of the total membership thereof.

5° When a charge has been preferred by either House of the Oireachtas, the other House shall investigate the charge, or cause the charge to be investigated.

6° The President shall have the right to appear and to be represented at the investigation of the charge.

7° If, as a result of the investigation, a resolution be passed supported by not less than two-thirds of the total membership of the House of the Oireachtas by which the charge was investigated or caused to be investigated, declaring that the charge preferred against the President has been sustained and

that the misbehaviour, the subject of the charge, was such as to render him unfit to continue in office, such resolution shall operate to remove the President from his office.

(11) 1° The President shall have an official residence in or near the city of Dublin.

2° The President shall receive such emoluments and allowances as may be determined by law.

3° The emoluments and allowances of the President shall not be diminished during his term of office.

13. (1) 1° The President shall, on the nomination of Dáil Eireann, appoint the Taoiseach, that is, the head of the Government or Prime Minister.

2° The President shall, on the nomination of the Taoiseach with the previous approval of Dáil Eireann, appoint the other members of the Government.

3° The President shall, on the advice of the Taoiseach, accept the resignation or terminate the appointment of any member of the Government.

(2) 1° Dáil Eireann shall be summoned and dissolved by the President on the advice of the Taoiseach.

2° The President may in his absolute discretion refuse to dissolve Dáil Eireann on the advice of a Taoiseach who has ceased to retain the support of a majority in Dáil Eireann.

3° The President may at any time, after consultation with the Council of State, convene a meeting of either or both of the Houses of the Oireachtas.

(3) 1° Every bill passed or deemed to have been passed by both Houses of the Oireachtas shall require the signature of the President for its enactment into law.

2° The President shall promulgate every law made by the Oireachtas.

(4) The supreme command of the defence forces is hereby vested in the President.

(5) 1° The exercise of the supreme command of the defence forces shall be regulated by law.

2° All commissioned officers of the defence forces shall hold their commissions from the President.

(6) The right of pardon and the power to commute or remit punishment imposed by any court exercising criminal jurisdiction are hereby vested in the President, but such power of commutation or remission may, except in capital cases, also be conferred by law on other authorities.

(7) 1° The President may, after consultation with the Council of State communicate with the Houses of the Oireachtas by message or address on any matter of national or public importance.

2° The President may, after consultation with the Council of State address a message to the nation at any time on any such matter.

3° Every such message or address must, however, have received the approval of the Government.

(8) 1° The President shall not be answerable to either House of the Oireachtas or to any court for the exercise and performance of the power and functions of his office or for any act done or purporting to be done by him in the excercise and performance of these powers and functions.

2° The behaviour of the President may, however, be brought under review in either of the Houses of the Oireachtas for the purposes of section (10) of article 12 of this constitution, or by any court, tribunal or body appointed or designated by either of the Houses of the Oireachtas for the investigation of a charge under section (10) of the said article.

(9) The powers and functions conferred on the President by this constitution shall be exercisable and performable by him only on the advice of the Government, save where it is provided by this constitution that he shall act in his absolute discretion or after consultation with or in relation to the Council of State, or on the advice or nomination of, or on receipt of any other communication from, any other person or body.

(10) Subject to this constitution, additional powers and functions may be conferred on the President by law.

(11) No power or function conferred on the President by law shall be exercisable or performable by him save only on the advice of the Government.

14. (1) In the event of the absence of the President, or his temporary incapacity, or his permanent incapacity established as provided by section (3) of article 12 hereof, or in the event of his death, resignation, removal from office, or failure to exercise and perform the powers and functions of his office or any of them, or at any time at which the office of President may be vacant, the powers and functions conferred on the President by this constitution shall be exercised and performed by a Commission constituted as provided in section (2) of this article.

(2) 1° The Commission shall consist of the following persons, namely, the Chief Justice, the Chairman of Dáil Eireann (*An Ceann Comhairle*), and the Chairman of Seanad Eireann.

2° The president of the High Court shall act as a member of the Commission in the place of the Chief Justice on any occasion on which the office of Chief Justice is vacant or on which the Chief Justice is unable to act.

3° The Deputy Chairman of Dáil Eireann shall act as a member of the Commission in the place of the Chairman of Dáil Eireann on any occasion on which the office of Chairman of Dáil Eireann is vacant or on which the said Chairman is unable to act.

4° The Deputy Chairman of Seanad Eireann shall act as a member of the Commission in the place of the Chairman of Seanad Eireann on any occasion on which the office of Chairman of Seanad Eireann is vacant or on which the said Chairman is unable to act.

(3) The Commission may act by any two of their number and may act notwithstanding a vacancy in their membership.

(4) The Council of State may by a majority of its members make such provision as to them may seem meet for the exercise and performance of the powers and functions conferred on the President by this constitution in any contingency which is not provided for by the foregoing provisions of this article.

(5) 1° The provisions of this constitution which relate to the exercise and performance by the President of the powers and functions conferred on him by this constitution shall subject to the subsequent provisions of this section apply to the exercise and performance of the said powers and functions under this article.

2° In the event of the failure of the President to exercise or perform any power or function which the President is by this constitution required to

exercise or perform within a specified time, the said power or function shall be exercised or performed under this article, as soon as may be after the expiration of the time so specified.

THE NATIONAL PARLIAMENT

Constitution and Powers

15. (1) 1° The National Parliament shall be called and known, and is in this constitution generally referred to, as " the Oireachtas. "

2° The Oireachtas shall consist of the President and two Houses, *viz.*: a House of Representatives to be called " Dáil Eireann " and a Senate to be called " Seanad Eireann. "

3° The Houses of the Oireachtas shall sit in or near the city of Dublin or in such other place as they may from time to time determine.

(2) 1° The sole and exclusive power of making laws for the State is hereby vested in the Oireachtas ; no other legislative authority has power to make laws for the State.

2° Provision may however be made by law for the creation or recognition of subordinate Legislatures and for the powers and functions of these Legislatures.

(3) 1° The Oireachtas may provide for the establishment or recognition of functional or vocational councils representing branches of the social and economic life of the people.

2° A law establishing or recognising any such council shall determine its rights, powers and duties, and its relation to the Oireachtas and to the Government.

(4) 1° The Oireachtas shall not enact any law which is in any respect repugnant to this constitution or any provision thereof.

2° Every law enacted by the Oireachtas which is in any respect repugnant to this constitution or to any provision thereof shall, but to the extent only of such repugnancy, be invalid.

(5) The Oireachtas shall not declare acts to be infringements of the law which were not so at the date of their commission.

(6) 1° The right to raise and maintain military or armed forces is vested exclusively in the Oireachtas.

2° No military or armed force, other than a military or armed force raised and maintained by the Oireachtas, shall be raised or maintained for any purpose whatsoever.

(7) The Oireachtas shall hold at least one session every year.

(8) 1° Sittings of each House of the Oireachtas shall be public.

2° In cases of special emergency, however, either House may hold a private sitting with the assent of two-thirds of the members present.

(9) 1° Each House of the Oireachtas shall elect from its members its own Chairman and Deputy Chairman, and shall prescribe their powers and duties.

2° The remuneration of the Chairman and Deputy Chairman of each House shall be determined by law.

(10) Each House shall make its own rules and standing orders, with power to attach penalties for their infringement, and shall have power to ensure freedom of debate, to protect its official documents and the private papers of its members, and to protect itself and its members against any person or persons interfering with, molesting or attempting to corrupt its members in the exercise of their duties.

(11) 1° All questions in each House shall, save as otherwise provided by this constitution, be determined by a majority of the votes of the members present and voting other than the Chairman or presiding member.

2° The Chairman or presiding member shall have and exercise a casting vote in the case of an equality of votes.

3° The number of members necessary to constitute a meeting of either House for the exercise of its powers shall be determined by its standing orders.

(12) All official reports and publications of the Oireachtas or of either House thereof and utterances made in either House wherever published shall be privileged.

(13) The members of each House of the Oireachtas shall, except in case of treason as defined in this constitution, felony or breach of the peace, be privileged from arrest in going to and returning from, and while within the precincts of, either House, and shall not, in respect of any utterance in either House, be amenable to any court or any authority other than the House itself.

(14) No person may be at the same time a member of both Houses of the Oireachtas, and, if any person who is already a member of either House becomes a member of the other House, he shall forthwith be deemed to have vacated his first seat.

(15) The Oireachtas may make provision by law for the payment of allowances to the members of each House thereof in respect of their duties as public representatives and for the grant to them of free travelling and such other facilities (if any) in connection with those duties as the Oireachtas may determine.

Dáil Eireann

16. (1) 1° Every citizen without distinction of sex who has reached the age of 21 years, and who is not placed under disability or incapacity by this constitution or by law, shall be eligible for membership of Dáil Eireann.

2° Every citizen without distinction of sex who has reached the age of 21 years, who is not disqualified by law and complies with the provisions of the law relating to the election of members of Dáil Eireann, shall have the right to vote at an election for members of Dáil Eireann.

3° No law shall be enacted placing any citizen under disability or incapacity for membership of Dáil Eireann on the ground of sex or disqualifying any citizen from voting at an election for members of Dáil Eireann on that ground.

4° No voter may exercise more than one vote at an election for Dáil Eriean, and the voting shall be by secret ballot.

(2) 1° Dáil Eireann shall be composed of members who represent constituencies determined by law.

2° The number of members shall from time to time be fixed by law, but the total number of members of Dáil Eireann shall not be fixed at less than one member for each 30,000 of the population, or at more than one member for each 20,000 of the population.

3° The ratio between the number of members to be elected at any time for each constituency and the population of each constituency, as ascertained at the last preceding census, shall, so far as it is practicable, be the same throughout the country.

4° The Oireachtas shall revise the constituencies at least once in every 12 years, with due regard to changes in distribution of the population, but any alterations in the constituencies shall not take effect during the life of Dáil Eireann sitting when such revision is made.

5° The members shall be elected on the system of proportional representation by means of the single transferable vote.

6° No law shall be enacted whereby the number of members to be returned for any constituency shall be less than three.

(3) 1° Dáil Eireann shall be summoned and dissolved as provided by section (2) of article 13 of this constitution.

2° A general election for members of Dáil Eireann shall take place not later than 30 days after a dissolution of Dáil Eireann.

(4) 1° Polling at every general election for Dáil Eireann shall as far as practicable take place on the same day throughout the country.

2° Dáil Eireann shall meet within 30 days from that polling day.

(5) The same Dáil Eireann shall not continue for a longer period than 7 years from the date of its first meeting; a shorter period may be fixed by law.

(6) Provision shall be made by law to enable the member of Dáil Eireann who is the Chairman immediately before a dissolution of Dáil Eireann to be deemed without any actual election to be elected a member of Dáil Eireann at the ensuing general election.

(7) Subject to the foregoing provisions of this article, elections for membership of Dáil Eireann, including the filling of casual vacancies, shall be regulated in accordance with law.

17. (1) 1° As soon as possible after the presentation to Dáil Eireann under article 28 of this constitution of the estimates of receipts and the estimates of expenditure of the State for any financial year, Dáil Eireann shall consider such estimates.

2° Save in so far as may be provided by specific enactment in each case, the legislation required to give effect to the financial resolutions of each year shall be enacted within that year.

(2) Dáil Eireann shall not pass any vote or resolution, and no law shall be enacted, for the appropriation of revenue or other public moneys unless the purpose of the appropriation shall have been recommended to Dail, Eireann by a message from the Government signed by the Taoiseach.

Seanad Eireann

18. (1) Seanad Eireann shall be composed of sixty members, of whom leven shall be nominated members and forty-nine shall be elected members,

(2) A person to be eligible for membership of Seanad Eireann must be eligible to become a member of Dáil Eireann.

(3) The nominated members of Seanad Eireann shall be nominated by the Taoiseach with their prior consent.

(4) The elected members of Seanad Eireann shall be elected as follows :—

(*i*) Three shall be elected by the National University of Ireland.

(*ii*) Three shall be elected by the University of Dublin.

(*iii*) Forty-three shall be elected from panels of candidates constituted as hereinafter provided.

(5) Every election of the elected members of Seanad Eireann shall be held on the system of proportional representation by means of the single transferable vote, and by secret postal ballot.

(6) The members of Seanad Eireann to be elected by the Universities shall be elected on a franchise and in the manner to be provided by law.

(7) 1° Before each general election of the members of Seanad Eireann to be elected from panels of candidates, five panels of candidates shall be formed in the manner provided by law containing respectively the names of persons having knowledge and practical experience of the following interests and services, namely :—

(*i*) National language and culture, literature, art, education and such professional interests as may be defined by law for the purpose of this panel.

(*ii*) Agriculture and allied interests and fisheries.

(*iii*) Labour, whether organised or unorganised.

(*iv*) Industry and commerce, including banking, finance, accountancy, engineering and architecture.

(*v*) Public administration and social services, including voluntary social activities.

2° Not more than eleven and, subject to the provisions of article 19 hereof, not less than five members of Seanad Eireann shall be elected from any one panel.

(8) A general election for Seanad Eireann shall take place not later than 90 days after a dissolution of Dáil Eireann, and the first meeting of Seanad Eireann after the general election shall take place on a day to be fixed by the President on the advice of the Taoiseach.

(9) Every member of Seanad Eireann shall, unless he previously dies, resigns, or becomes disqualified, continue to hold office until the day before the polling day of the general election for Seanad Eireann next held after his election or nomination.

(10) 1° Subject to the foregoing provisions of this article elections of the elected members of Seanad Eireann shall be regulated by law.

2° Casual vacancies in the number of the nominated members of Seanad Eireann shall be filled by nomination by the Taoiseach with the prior consent of persons so nominated.

3° Casual vacancies in the number of the elected members of Seanad Eireann shall be filled in the manner provided by law.

19. Provision may be made by law for the direct election by any functional or vocational group or association or council of so many members of Seanad Eireann as may be fixed by such law in substitution for an equal number of the

members to be elected from the corresponding panels of candidates constituted under article 18 of this constitution.

LEGISLATION

20. (1) Every bill initiated in and passed by Dáil Eireann shall be sent to Seanad Eireann and may, unless it be a money bill, be amended in Seanad Eireann and Dáil Eireann shall consider any such amendments.

(2) 1° A bill other than a money bill may be initiated in Seanad Eireann, and if passed by Seanad Eireann, shall be introduced in Dáil Eireann.

2° A bill initiated in Seanad Eireann if amended in Dáil Eireann shall be considered as a bill initiated in Dáil Eireann.

(3) A bill passed by either House and accepted by the other House shall be deemed to have been passed by both Houses.

MONEY BILLS

21. (1) 1° Money bills shall be initiated in Dáil Eireann only.

2° Every money bill passed by Dáil Eireann shall be sent to Seanad Eireann for its recommendations.

(2) 1° Every money bill sent to Seanad Eireann for its recommendations shall, at the expiration of a period not longer than 21 days after it shall have been sent to Seanad Eireann, be returned to Dáil Eireann, which may accept or reject all or any of the recommendations of Seanad Eireann.

2° If such money bill is not returned by Seanad Eireann to Dáil Eireann within such 21 days or is returned within such 21 days with recommendations which Dáil Eireann does not accept, it shall be deemed to have been passed by both Houses at the expiration of the said 21 days.

22. (1) 1° A money bill means a bill which contains only provisions dealing with all or any of the following matters, namely, the imposition, repeal, remission, alteration or regulation of taxation; the imposition for the payment of debt or other financial purposes of charges on public moneys or the variation or repeal of any such charges; supply; the appropriation, receipt, custody, issue or audit of accounts of public money; the raising or guarantee of any loan or the repayment thereof; matters subordinate and incidental to these matters or any of them.

2° In this definition the expressions "taxation", "public money" and "loan" respectively do not include any taxation, money or loan raised by local authorities or bodies for local purposes.

(2) 1° The Chairman of Dáil Eireann shall certify any bill which, in his opinion, is a money bill to be a money bill, and his certificate shall, subject to the subsequent provisions of this section, be final and conclusive.

2° Seanad Eireann, by a resolution, passed at a sitting at which not less than thirty members are present, may request the President to refer the question whether the bill is or is not a money bill to a Committee of Privileges.

3° If the President after consultation with the Council of State decides to accede to the request he shall appoint a Committee of Privileges consisting of an equal number of members of Dáil Eireann and of Seanad Eireann and a chairman who shall be a judge of the Supreme Court; these appointments

shall be made after consultation with the Council of State. In the case of an equality of votes but not otherwise the chairman shall be entitled to vote.

4° The President shall refer the question to the Committee of Privileges so appointed and the Committee shall report its decision thereon to the President within 21 days after the day on which the bill was sent to Seanad Eireann.

5° The decision of the Committee shall be final and conclusive.

6° If the President after consultation with the Council of State decides not to accede to the request of Seanad Eireann, or if the Committee of Privileges fails to report within the time hereinbefore specified, the certificate of the Chairman of Dáil Eireann shall stand confirmed.

TIME FOR CONSIDERATION OF BILLS

23. (1) This article applies to every bill passed by Dáil Eireann and sent to Seanad Eireann other than a money bill or a bill the time for the consideration of which by Seanad Eireann shall have been abridged under article 24 of this constitution.

1° Whenever a bill to which this article applies is within the stated period defined in the next following sub-section either rejected by Seanad Eireann or passed by Seanad Eireann with amendments to which Dáil Eireann does not agree or is neither passed (with or without amendment) nor rejected by Seanad Eireann within the stated period, the bill shall, if Dáil Eireann so resolves within 180 days after the expiration of the stated period, be deemed to have been passed by both Houses of the Oireachtas on the day on which the resolution is passed.

2° The stated period is the period of 90 days commencing on the day on which the bill is first sent by Dáil Eireann to Seanad Eireann or any longer period agreed upon in respect of the bill by both Houses of the Oireachtas.

(2) 1° The preceding section of this article shall apply to a bill which is initiated in and passed by Seanad Eireann, amended by Dáil Eireann, and accordingly deemed to have been initiated in Dáil Eireann.

2° For the purpose of this application the stated period shall in relation to such a bill commence on the day on which the bill is first sent to Seanad Eireann after having been amended by Dáil Eireann.

24. (1) If and whenever on the passage by Dáil Eireann of any bill, other than a bill expressed to be a bill containing a proposal to amend the constitution, the Taoiseach certifies by messages in writing addressed to the President and to the Chairman of each House of the Oireachtas that, in the opinion of the Government, the bill is urgent and immediately necessary for the preservation of the public peace and security, or by reason of the existence of a public emergency, whether domestic or international, the time for the consideration of such bill by Seanad Eireann shall, if Dáil Eireann so resolves and if the President, after consultation with the Council of State, concurs, be abridged to such period as shall be specified in the resolution.

(2) Where a bill the time for the consideration of which by Seanad Eireann has been abridged under this article is within the period specified in the resolution either rejected by Seanad Eireann or passed by Seanad Eireann with amendments or recommendations to which Dáil Eireann does not agree or is neither passed (with or without amendments or recommendations) nor

rejected by Seanad Eireann within the period so specified, the bill shall be deemed to have been passed by both Houses of the Oireachtas at the expiration of that period.

(3) When a bill the time for the consideration of which by Seanad Eireann has been abridged under this article becomes law it shall remain in force for a period of 90 days from the date of its enactment and no longer unless, before the expiration of that period, both Houses shall have agreed that such law shall remain in force for a longer period and the longer period so agreed upon shall have been specified in resolutions passed by both Houses.

SIGNING AND PROMULGATION OF LAWS

25. (1) As soon as any bill, other than a bill expressed to be a bill containing a proposal for the amendment of this constitution, shall have been passed or deemed to have been passed by both Houses of the Oireachtas, the Taoiseach shall present it to the President for his signature and for promulgation by him as a law in accordance with the provisions of this article.

(2) 1° Save as otherwise provided by this constitution, every bill so presented to the President for his signature and for promulgation by him as a law shall be signed by the President not earlier than 5 and not later than 7 days after the date on which the bill shall have been presented to him.

2° At the request of the Government, with the prior concurrence of Seanad Eireann, the President may sign any bill the subject of such request on a date which is earlier than 5 days after such date as aforesaid.

(3) Every bill the time for the consideration of which by Seanad Eireann shall have been abridged under article 24 of this constitution shall be signed by the President on the day on which such bill is presented to him for signature and promulgation as a law.

(4) 1° Every bill signed by the President under this constitution shall become and be law as on and from the day on which the bill shall have been so signed.

2° Every bill signed by the President shall come into operation on the day on which it is so signed unless the contrary intention appears.

3° Every bill so signed shall be promulgated by the President as a law by the publication by his direction of a notice in the *Iris Oifigiúil* stating that such bill has become law.

4° As soon as may be after the President has signed any bill and promulgated it as a law, the signed text shall be enrolled for record in the office of the Registrar of the Supreme Court and such signed text shall be conclusive evidence as to the provisions of such law.

5° An official translation of every law enacted by the Oireachtas in the Irish language shall be issued in the English language and an official translation of every law enacted by the Oireachtas in the English language shall be issued in the Irish language.

REFERENCE OF BILLS TO THE SUPREME COURT

26. This article applies to any bill passed or deemed to have been passed by both Houses of the Oireachtas other than a money bill, or a bill expressed to be a bill containing a proposal to amend the constitution, or a bill the time for the consideration of which by Seanad Eireann shall have been abridged under article 24 of this constitution.

(1) 1° The President may, after consultation with the Council of State, refer any bill to which this article applies to the Supreme Court for a decision on the question as to whether such bill or any specified provision or provisions of such bill is or are repugnant to this constitution or to any provision thereof.

2° Every such reference shall be made not later than 4 days after the date on which such bill shall have been passed or deemed to have been passed by both Houses of the Oireachtas.

3° The President shall not sign any bill the subject of a reference to the Supreme Court under this article pending the pronouncement of the decision of the court.

(2) 1° The Supreme Court consisting of not less than five judges shall consider every question referred to it by the President under this article for a decision, and, having heard arguments by or on behalf of the Attorney General and by counsel assigned by the Court, shall pronounce its decision on such question in open court as soon as may be, and in any case not later than 60 days after the date of such reference.

2° The decision of the majority of the judges of the Supreme Court shall, for the purposes of this article, be the decision of the Court.

(3) 1° In every case in which the Supreme Court decides that any provision of a bill the subject of a reference to the Supreme Court under this article is repugnant to this constitution or to any provision thereof, the President shall decline to sign such bill.

2° In every other case the President shall sign the bill as soon as may be after the date on which the decision of the Supreme Court shall have been pronounced.

REFERENCE OF BILLS TO THE PEOPLE

27. This article applies to any bill, other than a bill expressed to be a bill containing a proposal for the amendment of this constitution, which shall have been deemed, by virtue of article 23 hereof, to have been passed by both Houses of the Oireachtas.

(1) A majority of the members of Seanad Eireann and not less than one third of the members of Dáil Eireann may by a joint petition addressed to the President by them under this article request the President to decline to sign and promulgate as a law any bill to which this article applies on the ground that the bill contains a proposal of such national importance that the will of the people thereon ought to be ascertained.

(2) Every such petition shall be in writing signed by the petitioners, shall contain a statement of the particular ground or grounds on which the request is based, and shall be presented to the President not later than 4 days after the date on which the bill shall have been deemed to have been passed by both Houses of the Oireachtas.

(3) Upon receipt of a petition addressed to him under this article, the President shall forthwith consider such petition and shall, after consultation with the Council of State, pronounce his decision thereon not later than 10 days after the date on which the bill to which such petition relates shall have been deemed to have been passed by both Houses of the Oireachtas.

(4) 1° In every case in which the President decides that a bill the subject of a petition under this article contains a proposal of such national importance

that the will of the people thereon ought to be ascertained, he shall inform the Taoiseach and the Chairman of each House of the Oireachtas accordingly in writing under his hand and Seal and shall decline to sign and promulgate such bill as a law unless and until the proposal shall have been approved either—

(*i*) by the people at a referendum in accordance with the provisions of section (2) of article 47 of this constitution within a period of 18 months from the date of the President's decision ; or

(*ii*) by a resolution of Dáil Eireann passed within the said period after a dissolution and reassembly of Dáil Eireann.

2° Every such bill which shall have been approved either by the people or by a resolution of Dáil Eireann in accordance with the foregoing provisions of this section shall as soon as may be after such approval be presented to the President for his signature and promulgation by him as a law and the President shall thereupon sign the bill and duly promulgate it as a law.

(5) In every case in which the President decides that a bill the subject of a petition under this article does not contain a proposal of such national importance that the will of the people thereon ought to be ascertained, he shall inform the Taoiseach and the Chairman of each House of the Oireachtas accordingly in writing under his hand and Seal, and such bill shall be signed by the President not later than 11 days after the date on which the bill shall have been deemed to have been passed by both Houses of the Oireachtas and shall be duly promulgated by him as a law.

THE GOVERNMENT

28. (1) The Government shall consist of not less than seven and not more than fifteen members who shall be appointed by the President in accordance with the provisions of this constitution.

(2) The executive power of the State shall, subject to the provisions of this constitution, be exercised by or on the authority of the Government.

(3) 1° War shall not be declared and the State shall not participate in any war save with the assent of Dáil Eireann.

2° In the case of actual invasion, however, the Government may take whatever steps they may consider necessary for the protection of the State, and Dáil Eireann if not sitting shall be summoned to meet at the earliest practicable date.

3° Nothing in this constitution shall be invoked to invalidate any law enacted by the Oireachtas which is expressed to be for the purpose of securing the public safety and the preservation of the State in time of war or armed rebellion, or to nullify any act done or purporting to be done in pursuance of any such law.

(4) 1° The Government shall be responsible to Dáil Eireann.

2° The Government shall meet and act as a collective authority, and shall be collectively responsible for the Departments of State administered by the members of the Government.

3° The Government shall prepare estimates of the receipts and estimates of the expenditure of the State for each financial year, and shall present them to Dáil Eireann for consideration.

(5) 1° The head of the Government, or Prime Minister, shall be called, and is in this constitution referred to as, "the Taoiseach".

2° The Taoiseach shall keep the President generally informed on matters of domestic and international policy.

(6) 1° The Taoiseach shall nominate a member of the Government to be the Tánaiste.

2° The Tánaiste shall act for all purposes in the place of Taoiseach if the Taoiseach should die, or become permanently incapacitated, until a new Taoiseach shall have been appointed.

3° The Tánaiste shall also act for or in the place of the Taoiseach during the temporary absence of the Taoiseach.

(7) 1° The Taoiseach, the Tánaiste and the member of the Government who is in charge of the Department of Finance must be members of Dáil Eireann.

2° The other members of the Government must be members of Dáil Eireann or Seanadr Eireann, but not more than two may be members of Seanad Eireann.

(8) Every member of the Government shall have the right to attend and to be heard in each House of the Oireachtas.

(9) 1° The Taoiseach may resign from office at any time by placing his resignation in the hands of the President.

2° Any other member of the Government may resign from office by placing his resignation in the hands of the Taoiseach for submission to the President.

3° The President shall accept the resignation of a member of the Government, other than the Taoiseach, if so advised by the Taoiseach.

4° The Taoiseach may at any time, for reasons which to him seem sufficient, request a member of the Government to resign; should the member concerned fail to comply with the request, his appointment shall be terminated by the President if the Taoiseach so advises.

(10) The Taoiseach shall resign from office upon his ceasing to retain the support of a majority in Dáil Eireann unless on his advice the President dissolves Dáil Eireann and on the reassembly of Dáil Eireann after the dissolution the Taoiseach secures the support of a majority in Dáil Eireann.

(11) 1° If the Taoiseach at any time resigns from office the other members of the Government shall be deemed also to have resigned from office, but the Taoiseach and the other members of the Government shall continue to carry on their duties until their successors shall have been appointed.

2° The members of the Government in office at the date of a dissolution of Dáil Eireann shall continue to hold office until their successors shall have been appointed.

(12) The following matters shall be regulated in accordance with law namely, the organisation of, and distribution of business amongst, Departments of State, the designation of members of the Government to be Ministers in charge of the said Departments, the discharge of the functions of the office of a member of the Government during his temporary absence or incapacity, and the remuneration of the members of the Government.

INTERNATIONAL RELATIONS

29. (1) Ireland affirms its devotion to the ideal of peace and friendly co-operation amongst nations founded on international justice and morality.

(2) Ireland affirms its adherence to the principle of the pacific settlement of international disputes by international arbitration or judicial determination.

(3) Ireland accepts the generally recognised principles of international law as its rule of conduct in its relations with other States.

(4) 1° The executive power of the State in or in connection with its external relations shall in accordance with article 28 of this constitution be exercised by or on the authority of the Government.

2° For the purpose of the exercise of any executive function of the State in or in connection with its external relations, the Government may to such extent and subject to such conditions, if any, as may be determined by law, avail of or adopt any organ, instrument, or method of procedure used or adopted for the like purpose by the members of any group or league of nations with which the State is or becomes associated for the purpose of international co-operation in matters of common concern.

(5) 1° Every international agreement to which the State becomes a party shall be laid before Dáil Eireann.

2° The State shall not be bound by any international agreement involving a charge upon public funds unless the terms of the agreement shall have been approved by Dáil Eireann.

3° This section shall not apply to agreements or conventions of a technical and administrative character.

(6) No international agreement shall be part of the domestic law of the State save as may be determined by the Oireachtas.

THE ATTORNEY-GENERAL

30. (1) There shall be an Attorney-General who shall be the adviser of the Government in matters of law and legal opinion, and shall exercise and perform all such powers, functions and duties as are conferred or imposed on him by this constitution or by law.

(2) The Attorney-General shall be appointed by the President on the nomination of the Taoiseach.

(3) All crimes and offences prosecuted in any court constituted under article 34 of this constitution other than a court of summary jurisdiction shall be prosecuted in the name of the people and at the suit of the Attorney-General or some other person authorised in accordance with law to act for that purpose.

(4) The Attorney-General shall not be a member of the Government.

(5) 1° The Attorney-General may at any time resign from office by placing his resignation in the hands of the Taoiseach for submission to the President.

2° The Taoiseach may, for reasons which to him seem sufficient, request the resignation of the Attorney-General.

3° In the event of failure to comply with the request, the appointment of the Attorney-General shall be terminated by the President if the Taoiseach so advises.

4° The Attorney-General shall retire from office upon the resignation of the Taoiseach, but may continue to carry on his duties until the successor to the Taoiseach shall have been appointed.

(6) Subject to the foregoing provisions of this article, the office of Attorney-General, including the remuneration to be paid to the holder of the office, shall be regulated by law.

THE COUNCIL OF STATE

31. (1) There shall be a Council of State to aid and counsel the President on all matters on which the President may consult the said Council in relation to the exercise and performance by him of such of his powers and functions as are by this constitution expressed to be exercisable and performable after consultation with the Council of State, and to exercise such other functions as are conferred on the said Council by this constitution.

(2) The Council of State shall consist of the following members :

(*i*) As *ex officio* members : the Taoiseach, the Tánaiste, the Chief Justice, the president of the High Court, the Chairman of Dáil Eireann, the Chairman of Seanad Eireann, and the Attorney-General.

(*ii*) Every person able and willing to act as a member of the Council of State who shall have held the office of President, or the office of Taoiseach, or the office of Chief Justice, or the office of President of the Executive Council of Saorstát Eireann.

(*iii*) Such other persons, if any, as may be appointed by the President under this article to be members of the Council of State.

(3) The President may at any time and from time to time by warrant under his hand and Seal appoint such other persons as, in his absolute discretion, he may think fit to be members of the Council of State, but not more than seven persons so appointed shall be members of the Council of State at the same time.

(4) Every member of the Council of State shall at the first meeting thereof which he attends as a member take and subscribe a declaration in the following form :

"In the presence of Almighty God I.....do solemnly and sincerely promise and declare that I will faithfully and conscientiously fulfil my duties as a member of the Council of State."

(5) Every member of the Council of State appointed by the President, unless he previously dies, resigns, becomes permanently incapacitated, or is removed from office, shall hold office until the successor of the President by whom he was appointed shall have entered upon his office.

(6) Any member of the Council of State appointed by the President may resign from office by placing his resignation in the hands of the President.

(7) The President may, for reasons which to him seem sufficient, by an order under his hand and Seal, terminate the appointment of any member of the Council of State appointed by him.

(8) Meetings of the Council of State may be convened by the President at such times and places as he shall determine.

32. The President shall not exercise or perform any of the powers or functions which are by this constitution expressed to be exercisable or performable by him after consultation with the Council of State unless, and on every occasion before so doing, he shall have convened a meeting of the Council of State and the members present at such meeting shall have been heard by him.

THE COMPTROLLER AND AUDITOR-GENERAL

33. (1) There shall be a Comptroller and Auditor-General to control on behalf of the State all disbursements and to audit all accounts of moneys administered by or under the authority of the Oireachtas.

(2) The Comptroller and Auditor-General shall be appointed by the President on the nomination of Dáil Eireann.

(3) The Comptroller and Auditor-General shall not be a member of either House of the Oireachtas and shall not hold any other office or position of emolument.

(4) The Comptroller and Auditor-General shall report to Dáil Eireann at stated periods as determined by law.

(5) 1° The Comptroller and Auditor-General shall not be removed from office except for stated misbehaviour or incapacity, and then only upon resolutions passed by Dáil Eireann and by Seanad Eireann calling for his removal.

2° The Taoiseach shall duly notify the President of any such resolutions as aforesaid passed by Dáil Eireann and by Seanad Eireann and shall send him a copy of each such resolution certified by the Chairman of the House of the Oireachtas by which it shall have been passed.

3° Upon receipt of such notification and of copies of such resolutions the President shall forthwith, by an order under his hand and Seal, remove the Comptroller and Auditor-General from office.

(6) Subject to the foregoing, the terms and conditions of the office of Comptroller and Auditor-General shall be determined by law.

THE COURTS

34. (1) Justice shall be administered in public courts established by law by judges appointed in the manner provided by this constitution.

(2) The courts shall comprise courts of first instance and a court of final appeal.

(3) 1° The courts of first instance shall include a High Court invested with full original jurisdiction in and power to determine all matters and questions whether of law or fact, civil or criminal.

2° The jurisdiction of the High Court shall extend to the question of the validity of any law having regard to the provisions of this constitution, and in all cases in which any such matters shall come into question the High Court alone shall exercise original jurisdiction.

3° The courts of first instance shall also include courts of local and limited jurisdiction with a right of appeal as determined by law.

(4) 1° The court of final appeal shall be called "the Supreme Court".

2° The president of the Supreme Court shall be called "the Chief Justice"

3° The Supreme Court shall, with such exceptions and subject to such regulations as may be prescribed by law, have appellate jurisdiction from all decisions of the High Court, and shall also have appellate jurisdiction from such decisions of other courts as may be prescribed by law.

4° No law shall be enacted excepting from the appellate jurisdiction of the Supreme Court cases which involve questions as to the validity of any law having regard to the provisions of this constitution.

5° The decision of the Supreme Court shall in all cases be final and conclusive.

(5) 1° Every person appointed a judge under this constitution shall make and subscribe the following declaration :—

"In the presence of Almighty God I .....do solemnly and sincerely promise and declare that I will duly and faithfully and to the best of my knowledge and power execute the office of Chief Justice (*or as the case may be*) without fear or favour, affection or ill-will towards any man, and that I will uphold the constitution and the laws. May God direct and sustain me."

2° This declaration shall be made and subscribed by the Chief Justice in the presence of the President, and by each of the other judges of the Supreme Court, the judges of the High Court and the judges of every other court in the presence of the Chief Justice or the senior available judge of the Supreme Court in open court.

3° The declaration shall be made and subscribed by every judge before entering upon his duties as such judge, and in any case not later than 10 days after the date of his appointment or such later date as may be determined by the President.

4° Any judge who declines or neglects to make such declaration as aforesaid shall be deemed to have vacated his office.

35. (1) The judges of the Supreme Court, the High Court and all other courts established in pursuance of article 34 hereof shall be appointed by the President.

(2) All judges shall be independent in the exercise of their judicial functions and subject only to this constitution and the law.

(3) No judge shall be eligible to be a member of either House of the Oireachtas or to hold any other office or position of emolument.

(4) 1° A judge of the Supreme Court or the High Court shall not be removed from office except for stated misbehaviour or incapacity, and then only upon resolutions passed by Dáil Eireann and by Seanad Eireann calling for his removal.

2° The Taoiseach shall duly notify the President of any such resolutions passed by Dáil Eireann and by Seanad Eireann, and shall send him a copy of every such resolution certified by the Chairman of the House of the Oireachtas by which it shall have been passed.

3° Upon receipt of such notification and of copies of such resolutions, the President shall forthwith, by an order under his hand and Seal, remove from office the judge to whom they relate.

(5) The remuneration of a judge shall not be reduced during his continuance in office.

36. Subject to the foregoing provisions of this constitution relating to the courts, the following matters shall be regulated in accordance with law, that is to say :—

(*i*) the number of judges of the Supreme Court, and of the High Court, the remuneration, age of retirement and pensions of such judges ;

(*ii*) the number of the judges of all other courts, and their terms of appointment ; and

(*iii*) the constitution and organisation of the said courts, the distribution of jurisdiction and business among the said courts and judges, and all matters of procedure.

37. Nothing in this constitution shall operate to invalidate the exercise of limited functions and powers of a judicial nature, in matters other than criminal matters, by any person or body of persons duly authorised by law to exercise such functions and powers, notwithstanding that such person or such body of persons is not a judge or a court appointed or established as such under this constitution.

TRIAL OF OFFENCES

38. (1) No person shall be tried on any criminal charge save in due course of law.

(2) Minor offences may be tried by courts of summary jurisdiction.

(3) 1° Special courts may be established by law for the trial of offences in cases where it may be determined in accordance with such law that the ordinary courts are inadequate to secure the effective administration of justice and the preservation of public peace and order.

2° The constitution, powers, jurisdiction and procedure of such special courts shall be prescribed by law.

(4) 1° Military tribunals may be established for the trial of offences against militray law alleged to have been committed by persons while subject to military law and also to deal with a state of war or armed rebellion.

2° A member of the defence forces not on active service shall not be tried by any court-martial or other military tribunal for an offence cognisable by the civil courts unless such offence is within the jurisdiction of any court-martial or other military tribunal under any law for the enforcement of military discipline.

(5) Save in the case of the trial of offences under section (2), section (3) or section (4) of this article no person shall be tried on any criminal charge without a jury.

(6) The provisions of articles 34 and 35 of this constitution shall not apply to any court or tribunal set up under section (3) or section (4) of this article.

39. Treason shall consist only in levying war against the State, or assisting any State or person or inciting or conspiring with any person to levy war against the State, or attempting by force of arms or other violent means to overthrow the organs of government established by this constitution, or taking part or being concerned in or inciting or conspiring with any person to make or to take part or be concerned in any such attempt.

FUNDAMENTAL RIGHTS

Personal Rights

40. (1) All Citizens shall, as human persons, be held equal before the law.

This shall not be held to mean that the State shall not in its enactments have due regard to differences of capacity, physical and moral, and of social function.

(2) 1° Titles of nobility shall not be conferred by the State.

2° No title of nobility or of honour may be accepted by any citizen except with the prior approval of the Government.

(3) 1° The State guarantees in its laws to respect, and, as far as practicable, by its laws to defend and vindicate the personal rights of the citizen.

2° The State shall, in particular, by its laws protect as best it may from unjust attack and, in the case of injustice done, vindicate the life, person, good name and property rights of every citizen.

(4) 1° No citizen shall be deprived of his personal liberty save in accordance with law.

2° Upon complaint being made by or on behalf of any person that he is being unlawfully detained, the High Court and any and every judge thereof shall forthwith enquire into the same and may make an order requiring the person in whose custody such person shall be detained to produce the body of the person so detained before such court or judge without delay and to certify in writing as to the cause of the detention, and such court or judge shall thereupon order the release of such person unless satisfied that he is being detained in accordance with the law.

3° Nothing in this section, however, shall be invoked to prohibit, control or interfere with any act of the defence forces during the existence of a state of war or armed rebellion.

(5) The dwelling of every citizen is inviolable and shall not be forcibly entered save in accordance with law.

(6) 1° The State guarantees liberty for the exercise of the following rights, subject to public order and morality:—

(*i*) The right of the citizens to express freely their convictions and opinions.

The education of public opinion being, however, a matter of such grave import to the common good, the State shall endeavour to ensure that organs of public opinion, such as the radio, the press, the cinema, while preserving their rightful liberty of expression, including criticism of Government policy, shall not be used to undermine public order or morality or the authority of the State.

The publication or utterance of blasphemous, seditious or indecent matter is an offence which shall be punishable in accordance with law.

(*ii*) The right of the citizens to assemble peaceably and without arms.

Provision may be made by law to prevent or control meetings which are determined in accordance with law to be calculated to cause a breach of peace or to be a danger or nuisance to the general public and to prevent or control meetings in the vicinity of either House of the Oireachtas.

(*iii*) The rights of the citizens to form associations and unions.

Laws, however, may be enacted for the regulation and control in the public interest of the exercise of the foregoing right.

2° Laws regulating the manner in which the right of forming associations and unions and the right of free assembly may be exercised shall contain no political, religious or class discrimination.

The Family

41. (1) 1° The State recognises the family as the natural primary and fundamental unit group of society, and as a moral institution possessing inalienable and imprescriptible rights, antecedent and superior to all positive law.

2° The State, therefore, guarantees to protect the family in its constitution and authority, as the necessary basis of social order and as indispensable to the welfare of the nation and the State.

(2) 1° In particular, the State recognises that by her life within the home, woman gives to the State a support without which the common good cannot be achieved.

2° The State shall, therefore, endeavour to ensure that mothers shall not be obliged by economic necessity to engage in labour to the neglect of their duties in the home.

(3) 1° The State pledges itself to guard with special care the institution of marriage, on which the family is founded, and to protect it against attack.

2° No law shall be enacted providing for the grant of a dissolution of marriage.

3° No person whose marriage has been dissolved under the civil law of any other State but is a subsisting valid marriage under the law for the time being in force within the jurisdiction of the Government and Parliament established by this constitution shall be capable of contracting a valid marriage within that jurisdiction during the lifetime of the other party to the marriage so dissolved.

Education

42. (1) The State acknowledges that the primary and natural educator of the child is the family and guarantees to respect the inalienable right and duty of parents to provide, according to their means, for the religious and moral, intellectual, physical and social education of their children.

(2) Parents shall be free to provide this education in their homes or in private schools or in schools recognised or established by the State.

(3) 1° The State shall not oblige parents in violation of their conscience and lawful preference to send their children to schools established by the State, or to any particular type of school designated by the State.

2° The State shall, however, as guardian of the common good, require in view of actual conditions that the children receive a certain minimum education, moral, intellectual and social.

(4) The State shall provide for free primary education and shall endeavour to supplement and give reasonable aid to private and corporate educational initiative, and, when the public good requires it, provide other educational facilities or institutions with due regard, however, for the rights of parents, especially in the matter of religious and moral formation.

(5) In exceptional cases, where the parents for physical or moral reasons fail in their duty towards their children, the State as guardian of the common

good, by appropriate means shall endeavour to supply the place of the parents but always with due regard for the natural and imprescriptible rights of the child.

Private Property

43. (1) 1° The State acknowledges that man, in virtue of his rational being, has the natural right, antecedent to positive law, to the private ownership of external goods.

2° The State accordingly guarantees to pass no law attempting to abolish the right of private ownership or the general right to transfer, bequeath and inherit property.

(2) 1° The State recognises, however, that the exercise of the rights mentioned in the foregoing provisions of this article ought, in civil society, to be regulated by the principles of social justice.

2° The State, accordingly, may as occasion requires delimit by law the exercise of the said rights with a view to reconciling their exercise with the exigencies of the common good.

Religion

44. (1) 1° The State acknowledges that the homage of public worship is due to Almighty God. It shall hold His Name in reverence and shall respect and honour religion.

2° The State recognises the special position of the Holy Catholic Apostolic and Roman Church as the guardian of the faith professed by the great majority of the citizens.

3° The State also recognises the Church of Ireland, the Presbyterian Church in Ireland, the Methodist Church in Ireland, the Religious Society of Friends in Ireland, as well as the Jewish congregations and the other religious denominations existing in Ireland at the date of the coming into operation of this constitution.

(2) 1° Freedom of conscience and the free profession and practice of religion are, subject to public order and morality, guaranteed to every citizen.

2° The State guarantees not to endow any religion.

3° The State shall not impose any disabilities or make any discrimination on the ground of religious profession, belief or status.

4° Legislation providing State aid for schools shall not discriminate between schools under the management of different religious denominations, nor be such as to affect prejudicially the right of any child to attend a school receiving public money without attending religious instruction at that school.

5° Every religious denomination shall have the right to manage its own affairs, own, acquire and administer property, movable and immovable, and maintain institutions for religious or charitable purposes.

6° The property of any religious denomination or any educational institution shall not be diverted save for necessary works of public utility and on payment of compensation.

DIRECTIVE PRINCIPLES OF SOCIAL POLICY

45. The principles of social policy set forth in this article are intended for the general guidance of the Oireachtas. The application of those principles in the making of laws shall be the care of the Oireachtas exclusively, and shall not be cognisable by any court under any of the provisions of this Constitution.

(1) The State shall strive to promote the welfare of the whole people by securing and protecting as effectively as it may a social order in which justice and charity shall inform all the institutions of the national life.

(2) The State shall, in particular, direct its policy towards securing—

(i) that the citizens (all of whom, men and women equally, have the right to an adequate means of livelihood) may through their occupations find the means of making reasonable provision for their domestic needs ;

(ii) that the ownership and control of the material resources of the community may be so distributed amongst private individuals and the various classes as best to subserve the common good ;

(iii) that, especially, the operation of free competition shall not be allowed so to develop as to result in the concentration of the ownership or control of essential commodities in a few individuals to the common detriment ;

(iv) that in what pertains to the control of credit the constant and predominant aim shall be the welfare of the people as a whole ;

(v) that there may be established on the land in economic security as many families as in the circumstances shall be practicable.

(3) 1° The State shall favour and, where necessary, supplement private initiative in industry and commerce.

2° The State shall endeavour to secure that private enterprise shall be so conducted as to ensure reasonable efficiency in the production and distribution of goods and as to protect the public against unjust exploitation.

(4) 1° The State pledges itself to safeguard with especial care the economic interests of the weaker sections of the community, and, where necessary, to contribute to the support of the infirm, the widow, the orphan, and the aged.

2° The State shall endeavour to ensure that the strength and health of workers, men and women, and the tender age of children shall not be abused and that citizens shall not be forced by economic necessity to enter avocations unsuited to their sex, age or strength.

46. (1) Any provision of this constitution may be amended, whether by way of variation, addition, or repeal, in the manner provided by this article.

(2) Every proposal for an amendment of this constitution shall be initiated in Dáil Eireann as a bill, and shall upon having been passed or deemed to have been passed by both Houses of the Oireachtas, be submitted by referendum to the decision of the people in accordance with the law for the time being in force relating to the referendum.

(3) Every such bill shall be expressed to be " An Act to amend the Constitution ".

(4) A bill containing a proposal or proposals for the amendment of this constitution shall not contain any other proposal.

(5) A bill containing a proposal for the amendment of this constitution shall be signed by the President forthwith upon his being satisfied that the provisions of this article have been complied with in respect thereof and that such proposal has been duly approved by the people in accordance with the provisions of section (1) of article 47 of this constitution and shall be duly promulgated by the President as a law.

THE REFERENDUM

47. (1) Every proposal for an amendment of this constitution which is submitted by referendum to the decision of the people shall, for the purpose of article 46 of this constitution, be held to have been approved by the people, if, upon having been so submitted, a majority of the votes cast at such referendum shall have been cast in favour of its enactment into law.

(2) 1° Every bill and every proposal, other than a proposal to amend the constitution, which is submitted by referendum to the decision of the people shall be held to have been vetoed by the people if a majority of the votes cast at such referendum shall have been cast against its enactment into law and if the votes so cast against its enactment into law shall have amounted to not less than thirty-three and one-third per cent., of the voters on the register.

2° Every bill and every proposal, other than a proposal to amend the constitution, which is submitted by referendum to the decision of the people shall for the purposes of article 27 hereof be held to have been approved by the people unless vetoed by them in accordance with the provisions of the foregoing sub-section of this section.

(3) Every citizen who has the right to vote at an election for members of Dáil Eireann shall have the right to vote at a referendum.

(4) Subject as aforesaid, the referendum shall be regulated by law.

REPEAL OF CONSTITUTION OF SAORSTÁT EIREANN AND CONTINUANCE OF LAWS

48. The constitution [1] of Saorstát Eireann in force immediately prior to the date of the coming into operation of this constitution and " The Constitution of the Irish Free State (Saorstát Eireann) Act, 1922,"[2] in so far as that Act or any provision thereof is then in force, shall be and are hereby repealed as on and from that date.

49. (1) All powers, functions, rights and prerogatives whatsoever exercisable in or in respect of Saorstát Eireann immediately before the 11th day of December, 1936, whether in virtue of the constitution then in force or otherwise, by the authority in which the executive power of Saorstát Eireann was then vested are hereby declared to belong to the people.

(2) It is hereby enacted that, save to the extent to which provision is made by this constitution or may hereafter be made by law for the exercise of any such power, function, right or prerogative by any of the organs established by this constitution, the said powers, functions, rights and prerogatives shall not be exercised or be capable of being exercised in or in respect of the State save only by or on the authority of the Government.

(3) The Government shall be the successors of the Government of Saorstát Eireann as regards all property, assets, rights and liabilities.

50. (1) Subject to this constitution and to the extent to which they are not inconsistent therewith, the laws in force in Saorstát Eireann immediately prior to the date of the coming into operation of this constitution shall continue to be of full force and effect until the same or any of them shall have been repealed or amended by enactment of the Oireachtas.

(2) Laws enacted before, but expressed to come into force after, the coming into operation of this constitution, shall, unless otherwise enacted by the Oireachtas, come into force in accordance with the terms thereof.

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(1) *State Papers*, Vol. CXVI, page 262, as subsequently amended.
(2) *Ibid.*, Vol. CXVI, page 262.

TRANSITORY PROVISIONS

51. (1) Notwithstanding anything contained in article 46 hereof, any of the provisions of this constitution, except the provisions of the said article 46 and this article, may, subject as hereinafter provided, be amended by the Oireachtas, whether by way of variation, addition or repeal, within a period of 3 years after the date on which the first President shall have entered upon his office.

(2) A proposal for the amendment of this constitution under this article shall not be enacted into law if, prior to such enactment, the President, after consultation with the Council of State, shall have signified in a message under his hand and Seal addressed to the Chairman of each of the Houses of the Oireachtas that the proposal is in his opinion a proposal to effect an amendment of such a character and importance that the will of the people thereon ought to be ascertained by referendum before its enactment into law.

(3) The foregoing provisions of this article shall cease to have the force of law immediately upon the expiration of the period of 3 years referred to in section (1) hereof.

(4) This article shall be omitted from every official text of this constitution published after the expiration of the said period.

* * * * * * * * * * * * *

62. This constitution shall come into operation—

(i) on the day following the expiration of a period of 180 days after its approval by the people signified by a majority of the votes cast at a plebiscite thereon held in accordance with law ; or

(ii) on such earlier day after such approval as may be fixed by a resolution of Dáil Eireann elected at the general election the polling for which shall have taken place on the same day as the said plebiscite.

63. A copy of this constitution signed by the Taoiseach, the Chief Justice, and the Chairman of Dáil Eireann, shall be enrolled for record in the office of the Registrar of the Supreme Court, and such signed copy shall be conclusive evidence of the provisions of this constitution. In case of conflict between the Irish and the English texts, the Irish text shall prevail.

LEEWARD ISLANDS

Area : 422·5 Square miles (*Population : 100,497*)
(*Estimated Population of 1943*)

INTRODUCTION

The Leeward Islands furnish one of the earliest examples of federation in the British Empire, for they had been associated together in this way as early as 1689. "Not merely was there a legislative assembly in each of the islands, there was also a general legislature for the whole of the group, which consisted of two houses, a nominated Council and an elected Assembly. The system did not work well, it led to a great deal of friction, and the meetings of the General Assembly fell into abeyance between 1710 and 1798, when it was abolished. The islands were placed under the rule of a single governor in 1833, but the separate legislatures were still maintained, and during the years 1833-1837 the Imperial authorities were debating the advisability of restoring the old General Legislature for the group and thus re-establishing a federal system. This step was not taken, however, till 1871." ("Federal and Unified Constitutions" by A. P. Newton, *p. 37.*) The Act of 1871 has since been amended many times ; the Constitution as amended up to 1937 is printed here.

Two features of the Constitution call for notice. The Islands form what may be called a Union consisting of five Presidencies, or, in current Indian phraseology, "Provinces". Some of the Presidencies or Provinces themselves comprise a group of islands ; *e.g.*, the Presidency of St. Christopher and Nevis comprises the islands of St. Christopher, Nevis, and Anguilla as well as certain adjacent islands. There is a common executive head or Governor for the Union and for each of the Provinces. What may be called the Union Legislature consists of the Governor and the General Legislative Council (see section 10) ; what may be called the Provincial Legislature consists of the same Governor and the Island Council (see section 11).

The other feature deserving mention is that in the list of subjects assigned to the Union Legislature is an entry which reads : "Such other subjects in respect of each Presidency as the Island Legislature thereof may declare to be within the competency of the General Legislature". [See section 10 (1) (*r*).] [This may be compared with section 51, item (*xxxvii*) of the Australian Constitution, according to which the Commonwealth Parliament has power to make laws with respect to "matters referred to the Parliament of the Commonwealth by the Parliament or Parliaments of any State or States, but so that the law shall extend only to States by whose Parliaments the matter is referred, or which afterwards adopt the law".] Under this provision it is open to any particular Provincial Legislature to cede any specified subject to the Union Legislature.

CONSTITUTION
OF
LEEWARD ISLANDS

1. Act of the Imperial Parliament for the Federation and General Government of the Islands.—August 21, 1871.

Text in *State Papers*, Vol. LXI, page 1349.

Amendments

ACTS OF THE FEDERAL LEGISLATURE :

November 4, 1899.
April 3, 1903.
March 30, 1914.
June 14, 1923.
March 19, 1924.
May 28, 1927..Text, as amended to 1927, in *Federal Acts of the Leeward Islands*, Revised Edition, 1927, Vol. I, page 1
May 22, 1936.
August 28, 1937.

2. Letters Patent constituting the Office of Governor and Commander-in-Chief. Westminster, November 17, 1936.

Text in *Statutory Rules and Orders*, 1936, Vol. II, page 3674.

3. Royal Instructions to the Governor and Commander-in-Chief —St. Jame's, November 17, 1936.

. . . . . .

1. Act of Parliament, 1871. (as amended to 1937)

[34 & 35 Vict., c. 107.—August 21, 1871]

* * *

6. There shall be in the Leeward Islands a legislative body to be styled "the General Legislative Council," composed of nine elective and nine official members ; provided that the proceedings of the Council shall not be invalid on account of any vacancies therein.

7. (1) Of the elective members of the General Legislative Council three hall be taken from among the unofficial members of the Island Council of Antigua, three from among the unofficial members of the Island Council of St. Christopher and Nevis, one of whom shall at the time of his election be resident in Nevis, two from among the unofficial members of the Island Council of Dominica, and one from among the unofficial members of the Island Council of Montserrat. The said elective members shall be respectively chosen by the unofficial members of the said Island Councils from which they are taken, and shall be elected in such manner as such Councils may, from time to time, by any standing rule, determine, and within such period as may be, from time to time, prescribed by proclamation ; and every such member shall *ipso facto* vacate his seat on ceasing to be a member of such Island Council.

(2) The Governor may accept the resignation of any elective member of the Council upon a written request to resign being addressed by such member to the Governor.

(3) Every elective member, who shall accept any office of emolument under the Crown, shall thereupon vacate his seat in the said Council but shall be eligible for re-election.

(4) When any elective member vacates his seat in Council, otherwise than by the dissolution or other determination thereof, the elective members

of the Island Council which he represented shall choose a successor within 3 months after notice of such vacancy shall have been proclaimed in the Presidency ; and, if they fail to do so within that time, the Governor shall appoint a person from that Island Council to fill such vacancy.

8. The official members shall be as follows :—

The Governor, the holder of the substantive appointment of Administrator of Antigua, the holder of the substantive appointment of Administrator of the Presidency of Saint Christopher and Nevis, the holder of the substantive appointment of Administrator of Dominica, the person for the time being lawfully performing the duties of Federal Secretary, the person for the time being lawfully performing the duties of Attorney-General, the holder of the substantive appointment of Commissioner of the Presidency of Montserrat, the holder of the substantive appointment of Commissioner of the Presidency of the Virgin Islands and the person for the time being lawfully performing the duties of the Federal Treasurer.

Provided that if any holder of the substantive appointments of Administrator of the Presidency of Antigua, Administrator of the Presidency of Saint Christopher and Nevis, Administrator of the Presidency of Dominica, Commissioner of the Presidency of Montserrat, Commissioner of the Presidency of the Virgin Islands, respectively, is unable to take his seat upon the Council the Governor shall provisionally appoint a person holding office under the Government of the Colony, or of any Presidency, to be a temporary member of the said Council until such ime as such holder of a substantive appointment is able to take his seat upon the Council.

Provided that, if and when the duties of the offices of any two official members are being discharged either permanently or temporarily by one and the same person, it shall be lawful for the Governor to appoint some fit and proper person, holding office under the Government of any Presidency, or of the Colony of the Leeward Islands, to be an official member of the said Council and to make up the full number of nine official members. Such person so appointed shall, *ipso facto*, vacate his seat when, and so soon as, the said duties are being performed by two different persons.

9. (1) Notwithstanding anything contained in this Act, the Governor may from time to time appoint to the General Legislative Council—

(*a*) a person resident in the Presidency of the Virgin Islands to be an unofficial member of such Council.

(*b*) a person holding office under the Government of the Colony of the Leeward Islands, and approved by the Secretary of State, to be an official member of such Council.

(2) The powers conferred by this section shall not be exercised singly. Provided, however, that on a vacancy occurring in the official membership created by this section other than in the manner mentioned in sub-section 5 hereof, the Governor may fill such vacancy.

(3) Upon appointments under this section and during the continuance only of such appointments, this Act shall have the following effect :—

(*a*) Section 6 shall have effect as though for the word "nine" in both places where that word occurs, there were substituted the word "ten," and for the purpose of that section the unofficial member appointed under this Act shall be deemed to be an elective member.

(*b*) Section 8 shall have effect as though for the word "nine" in the second proviso thereto, there were substituted the word "ten"

(4) (*a*) Where a person is appointed an unofficial member of the General Legislative Council, the Governor may accept his resignation therefrom, and in the manner provided by this Act for the acceptance of the resignation of an elective member.

(*b*) An unofficial member appointed under this section who shall accept any office of emolument under the Crown shall thereupon vacate his seat in the said Council.

(5) The person appointed to be an official member shall *ipso facto* vacate his seat when and so soon as the unofficial member appointed by virtue of this section ceases to be a member of the General Legislative Council.

10. (1) Subject to the provisions of the 22nd and 23rd sections of this Act, the Governor, with the consent of the General Legislative Council, hereinafter referred to as "the Council", may make laws for the Leeward Islands, or any part thereof, on the following subjects :—

(*a*) The law of real and personal property, including wills, testaments, probate, and administration of estates of deceased persons ;

(*b*) The mercantile law ;

(*c*) The law relating to husband and wife, parent and child, marriage, divorce and guardianship of infants ;

(*d*) The criminal law ;

(*e*) The constitution of courts of law, the criminal and civil administration of justice, including the jurisdiction, practice, and procedure of all courts of law, criminal and civil ;

(*f*) The establishment and regulation of a common convict station and a common prison discipline ;

(*g*) The establishment and regulation of a general police force, and of the other protective forces of the Leeward Islands ;

(*h*) The post office and the electric telegraph ;

(*i*) Quarantine ;

(*j*) Currency ;

(*k*) Weights and measures ;

(*l*) Audit of the public accounts in the several Presidencies ;

(*m*) Education ;

(*n*) Immigration and treatment of immigrants ;

(*o*) Idiots, lunatics, and idiot and lunatic asylums ;

(*p*) Copyrights and patents ;

(*q*) The constitution and procedure of the Council ;

(*r*) Such other subjects in respect of each Presidency as the Island Legislature thereof may declare to be within the competency of the General Legislature.

(2) Where in consequence of a declaration made by the Island Legislature of any Presidency in pursuance of paragraph (*r*) of the preceding sub-section, any subject shall be within the competency of the General Legislature, that subject shall cease, as respects that Presidency, to be within the competency of the General Legislature if the Island Legislature shall revoke such

declaration and repeal any enactment in which it is embodied ; but every law which shall have been enacted by the General Legislature by virtue of that declaration shall, to the extent of its operation as respects the Presidency, remain in force but shall be subject to amendment and repeal as if it were a law of the Island Legislature.

11. Subject to the provisions of the 22nd and 23rd sections of this Act the Governor may, with the consent of the legislative body of any Presidency, make laws for the peace, order, and good government thereof ; provided that if the Governor shall consider that it is expedient :—

(*a*) that in the interest of public faith or of good government (which expressions shall, without prejudice to their generality, include the responsibility of a Presidency as a component part of the British Empire, and all matters pertaining to the appointment, salary and other conditions of service of any public officer or officers), that any bill introduced, or any motion, resolution or vote proposed for decision, in the Island Council of any Presidency should have effect ; or

(*b*) to secure detailed control of the finances of any Presidency during such time as, by virtue of the receipt of financial assistance by such Presidency from His Majesty's Exchequer for the purpose of balancing the annual budget or otherwise, such control rests in the case of such Presidency with His Majesty's Government, that any bill introduced or any motion, resolution or vote proposed for decision, in the Island Council of such Presidency should have effect ;

then if such Island Council fails to pass any such bill, motion, resolution or vote within such time as the Governor may think reasonable and expedient, the Governor may at any time within his discretion and notwithstanding any other provisions of any law in force in such Presidency, or of any standing orders of such Island Council, declare that such bill, motion, resolution or vote shall have effect and thereupon the same shall have effect as if it had been passed by such Island Council and, in the case of any such bill, the Governor may assent thereto in His Majesty's name and sign the same in token of such assent, but any island enactment relating to any of the subjects named in the preceding section may at any time be repealed or altered by the General Legislature, and shall, without any formal repeal, be void so far as it is repugnant to any law passed by the General Legislature.

* * *

30. It shall be lawful for His Majesty, by Order in Council, from time to time, on address from the legislative body of any of the West Indian islands not included in this Act, and from the Council, to bring such island under the operation of this Act, on such terms and conditions in each case as are in the addresses expressed, and as His Majesty thinks fit to approve, and the provisions of any Order in Council in that behalf shall have effect as if they had been enacted by the Imperial Parliament.

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3. Royal Instructions, 1936

* * *

8. The Executive Council of the Leeward Islands shall consist of the persons for the time being lawfully discharging the functions of Administrator of

Antigua, Administrator of Saint Christopher and Nevis, Administrator of Dominica, and Attorney-General of the Leeward Islands, who shall be called "*ex officio* members," and such other persons as we may from time to time appoint by any Instructions or warrants under our Sign Manual and Signet or as the Governor may appoint by an instrument under the Public Seal of the Leeward Islands, in pursuance of any instructions from us through one of our Principal Secretaries of State, or under the power delegated to him by our said Letters Patent.

Every such member not being an *ex officio* member shall vacate his seat in the Council at the end of 3 years from the date of the instrument by or in pursuance of which he is appointed, or at such earlier date as may be provided by that instrument, but any such member may be re-appointed.

If any member of the Council, other than an *ex officio* member, holding office in the public service of the Leeward Islands or of any Presidency shall cease so to hold office, his seat in the Council shall thereupon become vacant.

Whenever, upon any special occasion, the Governor desires to obtain the advice of any person within the Leeward Islands relating to affairs therein he may, in such manner as he shall think fit, appoint such person as an extraordinary member of th Council for such special occasion.

* * *

10. The Executive Councils of the Presidencies shall consist of the persons for the time being lawfully discharging the functions of Administrator or Commissioner of the Presidency (when the Governor is present), and of Federal Secretary and of Attorney-General of the Leeward Islands, who shall be called "*ex officio* members", and of such persons as we may from time to time appoint by any Instructions or warrants under our Sign Manual and Signet or as the Governor may appoint by an instrument under the Public Seal of the Leeward Islands in pursuance of any instructions from us through one of our Principal Secretaries of State.

Every such member of any of the said Councils not being an *ex officio* member shall vacate his seat in the Council at the end of 3 years from the date of the instrument by or in pursuance of which he is appointed, or at such earlier date as may be provided by that instrument, but any such member may be re-appointed.

If any member of the Council of any of the Presidencies, other than an *ex-officio* member, holding office in the public service of the Leeward Islands or of any Presidency shall cease to hold office, his seat in the Council shall thereupon become vacant.

Whenever, upon any special occasion, the Governor, Administrator or Commissioner desires to obtain the advice of any person within any of the Presidencies relating to affairs therein, he may summon for such special occasion any such person as an extraordinary member of the Executive Council of the Presidency.

* * *

ANTIGUA

Ordinance of the local Legislature reconstituting the Legislative Council—December 11, 1936.

* * *

PART I

Constitution and Powers of Council

3. From and after a date to be fixed by the Governor-in-Council by proclamation in the *Gazette* the Council of the Presidency now subsisting and all and every the privileges of that body, shall cease and determine absolutely, and in place of the said Council there shall be in and for the Presidency a Council which shall be constituted in such manner and have such powers as are hereinafter provided.

4. The Council shall be composed of three official members, three nominated members and five elected members.

5. (1) The official members shall be—

(*a*) The Administrator as president.

(*b*) Two other persons holding office in the public service of the Colony or the Presidency, appointed by office or by name by His Majesty by any instruction or warrant under the Royal Sign Manual and Signet, or by the Governor by an instrument under the Public Seal of the Presidency in pursuance of instructions from His Majesty through the Secretary of State.

(2) The nominated members shall be such persons not holding office in the service of the Crown, as may from time to time be appointed by His Majesty by any instruction or warrant under the Royal Sign Manual and Signet, or by the Governor by an instrument under the Public Seal of the Presidency in pursuance of instructions from His Majesty through the Secretary of State.

(3) The elected members shall be persons qualified and elected as hereinafter provided.

* * *

12. An official or nominated member of the Council shall hold his seat during His Majesty's pleasure and shall in any case vacate his seat at the next dissolution of the Council after his appointment, unless previously removed by virtue of any instruction or warrant under the Royal Sign Manual and Signet or by His Majesty through the Secretary of State, or unless his seat shall be vacated under the provisions of section 9 of this ordinance. An official or nominated member may be re-appointed.

* * *

15. The Governor shall dissolve the Council at the expiration of 3 years from the date of the return of the first writs at the last preceding general election, if it shall not have been sooner dissolved.

* * *

19. Subject to the provisions of this ordinance all questions brought before the Council shall be decided by the majority of the votes given, and the administrator shall have a casting vote if the votes be equally divided, but shall not have an original vote.

In the absence of the Administrator from the Council, the member presiding shall have an original vote, and a casting vote if the votes are equally divided.

* * *

22. It shall be competent for any member of the Council to propose any question for debate therein ; and such question, if seconded by any other member, shall be debated and disposed of according to the standing rules and orders :

Provided that—

(*i*) no ordinance, vote, resolution or question, the object or effect of which may be to dispose of or charge any part of His Majesty's revenue arising within the Presidency, or to revoke, alter or vary any such disposition or charge, shall be proposed, except by the Administrator or with his consent ; and

(*ii*) no vote, resolution or question, the object or effect of which may be to suspend the standing orders of the Council, shall be proposed except by the Administrator or with his consent.

23. It shall be lawful for the Governor, with the advice and consent of the Council, to make laws for the peace, order and good government of the Presidency.

24. (1) If the Governor shall consider that it is expedient—

(*a*) in the interest of public faith or of good government (which expressions shall, without prejudice to their generality, include the responsibility of the Presidency as a component part of the British Empire, and all matters pertaining to appointment, salary and other conditions of service of any public officer or officers) ; or

(*b*) to secure detailed control of the finances of the Presidency during such time as, by virtue of receipt of financial assistance by the Presidency from His Majesty's Exchequer for the purpose of balancing the annual budget or otherwise, such control rests with His Majesty's Government ;

that any bill introduced, or any motion, resolution or vote proposed for decision, in the Council should have effect, then if the Council fail to pass such bill, motion, resolution or vote within such time as the Governor may think reasonable and expedient, the Governor, at any time within his discretion, may, notwithstanding any provisions of any law of the Colony or Presidency or of any standing orders of the Council, declare that such bill, motion, resolution or vote shall have effect, and thereupon the same shall have effect as if it had been passed by the Council, and in the case of any such bill, the provisions of this ordinance as to assent to bills and disallowance of ordinances shall apply accordingly.

* * * *

PART II

Qualification and Election of Members of Council and Registration of Voters

QUALIFICATIONS

28. No person shall be capable of being elected a member of the Council or, having been elected, shall sit or vote in the Council who at the time of election—

(1) is the holder of any public office ; or

(2) is a minister of religion ; or

(3) is a returning officer at the election in question ; or

(4) is not entitled to vote at the election of a member of the Council ; or

(5) does not—

(*a*) possess a clear income of at least £200 per annum ; or

(*b*) own real property in the Presidency of the value of at least £500 above all charges and encumbrances affecting the same ; or

(*c*) occupy land in the Presidency, as tenant to another, of rental value of at least £50 per annum.

* * *

30. If any elected member of the Council—

(1) without the leave of the Administrator previously obtained, is absent from three consecutive meetings of the Council ; or

(2) becomes a citizen or subject of, or makes any declaration or acknowledgment of allegiance to, any foreign State or Power ; or

(3) is adjudicated a bankrupt ; or

(4) is sentenced in any part of His Majesty's dominions, or in any territory under His Majesty's protection, to death, penal servitude, or imprisonment for a term exceeding 12 months ; or

(5) dies ; or

(6) by writing under his hand addressed to the Governor, resigns his seat in the Council ; or

(7) accepts any public office ; or

(8) ceases to possess the income or property qualification required by section 28 ; or

(9) becomes a lunatic so found under any law in force in the Presidency ; or

(10) becomes a minister of religion ;

his seat in the Council shall thereupon become vacant.

31. (1) Every person shall be entitled to be registered as a voter, and when registered to vote at the election of members of the Council, who—

(*a*) has attained the age of 21 years ; and

(*b*) is not a lunatic so found under any law in force in the Presidency and

(*c*) is a British subject ; and

(*d*) has resided in the Presidency for 12 months immediately preceding the date of registration or is domiciled in the Presidency and is resident therein at the date of such registration, and in any case possesses one of the following qualifications—

(*i*) has a clear income of at least £30 per annum ; or

(*ii*) is the owner of real property within the Presidency of the value of at least £100 above all charges and encumbrances affecting the same ; or

(*iii*) is paying rent in respect of real property situate within the Presidency at the rate of at least £12 per annum ; or

(*iv*) has paid direct taxes for the previous year to an amount of at least 15*s*.

Provided that—

Firstly, no person shall be registered as a voter or be entitled to vote for the election of a member of the Council who has been convicted of perjury in any court in His Majesty's dominions or in any territory under His Majesty's protection, or who has been sentenced by any such court to death, or penal servitude, or imprisonment for a term exceeding 12 months, and has not either suffered the punishment to which he was sentenced or such other punishment as by competent authority may have been substituted for the same or received a free pardon from His Majesty ; and

Secondly, no person shall be registered as a voter who has within 12 months immediately preceding the 1st day of January in any year in which a register of voters is prepared, received any relief from public or parochial funds except such special relief as may be declared by the Governor by proclamation not to be relief for the purposes of this proviso ; and

Thirdly, no person shall be registered as a voter unless he shall with his own hand have subscribed his name to his claim to be registered and written thereon the date of such subscription, or, if he is incapacitated by blindness or any other physical cause from so doing, such subscription and writing shall be performed on his behalf by the registering officer.

* * *

32. For the purpose of the election of members of the Council the Presidency shall form one electoral district.

* * *

DOMINICA

Ordinance of the local Legislature reconstituting the Legislative Council—December 11, 1936.

The salient sections are identical with those of ANTIGUA (see page 148), with the following exceptions :—

5 (*b*) The words " the Colony or " are omitted.

28 (3) *reads* " is a returning officer of the district for which the election is held ; or ".

31 (1) *reads* : " Every person shall be entitled to be registered as a voter for any one electoral district in which he is resident, and when registered to vote at the election of members of the Council for the district in respect of which he is registered who— "

32 *reads* : " For the purpose of the election of members of the Council the Presidency shall be divided into five electoral districts as follows :—

* * *

Each electoral district shall be represented on the Council by one member."

MONTSERRAT

Ordinance of the local Legislature reconstituting the Legislative Council—December 11, 1936.

The salient sections are identical with those of ANTIGUA (see page 148 *ante*), except that section 4 provides for two nominated members and four elected members, and "Commissioner" is substituted throughout for "Administrator".

ST. CHRISTOPHER AND NEVIS

Ordinance of the local Legislature reconstituting the Legislative Council—December 11, 1936.

With the exception of section 32, the salient sections are identical with those of ANTIGUA (see page 148 *ante*), with the modifications reproduced under DOMINICA.

Section 32 reads as follows :—"For the purpose of the election of members of the Council, the Presidency, shall be divided into three electoral districts, which shall be represented in the Council as follows :—

(1) The island of Saint Christopher—by three elected members.

(2) The island of Nevis—by one elected member.

(3) The island of Anguilla and all small islands which are adjacent thereto and form part of the Presidency—by one elected member".

THE UNITED STATES OF AMERICA

Introduction

Area : 3,738,395 sq. miles. Population* : 150,630,720.*

The Constitution of the United States of America holds a singular interest. It was born of War. Prior to the War of Liberation, the States that later became known as the United States, thirteen in number, were separate British Colonies, each with its own distinct history and antecedents. Each of these thirteen Colonies was governed by a Governor appointed by the British King, with separate Legislative Assemblies, some of which were set up by the Royal Prerogative. It was these thirteen separate and distinct Colonies that on July 4th, 1776, published what they themselves described as a "Unanimous Declaration" to the following effect :—

> "That these United Colonies are, and of Right ought to be Free and Independent States ; that they are Absolved from all Allegiance to the British Crown, and that all political communication between them and the State of Great Britain is and ought to be totally dissolved ; and that as Free and Independent States, they have full Power to levy War, conclude Peace, contract Alliances, establish Commerce, and to do all other Acts and Things which Independent States may of right do."

Thus, the thirteen Colonies became by their declaration thirteen sovereign, free and independent States, prepared by War to defend the independence they had declared. The necessity of common action in such a War, however, led them, as free contracting parties, to draft certain Articles of Confederation. These Articles were drafted on November 15th, 1777. They were ratified by each of the thirteen States at various times, the final ratification being by the State of Maryland on March 1st, 1871. By these Articles the contracting States pledged themselves to common action in certain fundamental matters, such common action to be determined by a body described as a Congress. The use of the word Congress is significant, inasmuch as it reveals the strictly international aspect of this Confederacy, for the Congress was in fact and in effect an international Conference, which, under the stress of War, was endowed with certain administrative powers. The fundamental principles underlying the Confederation are clearly stated in the first three Articles.

Article I.—The Style of this Confederation shall be " United States of America ".

Article II.—Each State retains its Sovereignty, Freedom and Independence, and every Power, Jurisdiction and Right, which is not by this Confederation expressly delegated to the United States in Congress assembled.

Article III.—The said States hereby severally enter into a firm league of friendship with each other, for their common defence, the security of their liberties, and their mutual and general welfare, binding themselves to assist each other, against all force offered to, or attacks made upon them, or any of them, on account of religion, sovereignty, trade, or any other pretence whatever.

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*Including non-contiguous territory—Alaska, Phillipine Islands, etc.—and soldiers, etc., abroad in 1940.

After the War of Liberation the limited powers of this international Congress proved quite inadequate to deal with the financial and economic ruin that followed in its trail. To men like Alexander Hamilton the only remedy for such evils seemed the abolition, virtual or absolute, of the thirteen sovereignties, and the creation of a single central State. But each State preserved so strong a sense of its individual history, each State having come into existence as a Colony through causes so widely different, that any such counsel as this was clearly impracticable. In many States, even the limited powers granted to the United Congress were begrudged.

Nevertheless, it became more and more evident that the powers granted to their United Congress were inadequate to deal with problems that were common to all the States; therefore the Congress, on February 21st, 1787, declared that the "Confederation and perpetual union between the States" had not proved "adequate to the exigencies of government and the preservation of the Union"; and therefore deemed it "expedient that on the second Monday in May next a Convention of delegates who shall have been appointed by the several States be held at Philadelphia for the sole and express purpose of revising the Articles of Confederation and reporting to Congress and the several legislatures such alterations and provisions therein as shall when agreed to in Congress and confirmed by the States render the federal constitution adequate to the exigencies of government and the preservation of the Union".

The result of this resolution was that twelve of the thirteen sovereign free and independent States sent official delegates to the Convention, which met on May 25th, 1787, when seven States were represented. George Washington was chosen President of the Convention. Finally delegates attended from every State except Rhode Island. As the result of the initial discussion, this Convention decided to go completely outside its terms of reference, and, instead of revising the Articles of Confederation, to draw up a whole new Constitution. It decided, further, that such a Constitution, when drafted, should be referred for ratification, not to Congress or to the legislatures of the Colonies, but to the people themselves in each of the States.

This Convention thereupon became a Constituent Convention distinguished from a Constituent Assembly, for the purpose of convenience, by the fact that it would not of its sovereign right prescribe a Constitution, but would only refer it when drafted to the sovereign bodies or the sovereign peoples which it represented. The Convention consisted of fifty-five delegates. It continued to sit until September 17th, 1787, when thirty-nine delegates signed the Constitution which had been drafted and sent it forward to Congress with the following resolution attached:

Resolution of the Federal Convention submitting the Constitution to Congress, September 17, 1787.

In Convention Monday, September 17th, 1787.

Present

The States of

New Hampshire, Massachusetts, Connecticut, Mr. Hamilton from New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia. North Carolina, South Carolina, and Georgia.

Resolved—

That the preceding Constitution be laid before the United States in Congress assembled, and that it is the Opinion of this Convention

that it should afterwards be submitted to a Convention of Delegates, chosen in each State by the People thereof, under the Recommendation of its Legislature, for their Assent and Ratification; and that each Convention assenting to, and ratifying the Same, should give Notice thereof to the United States in Congress assembled.

Resolved—

That it is the Opinion of this Convention, that as soon as the Conventions of nine States shall have ratified this Constitution, the United States in Congress assembled should fix a Day on which Electors should be appointed by the States which shall have ratified the same, and a Day, on which the Electors should assemble to vote for the President and the Time and Place for commencing Proceedings under this Constitution. That after such Publication the Electors should be appointed and the Senators and Representatives elected; that the Electors should meet on the Day fixed for the Election of the President, and should transmit their Votes certified, signed, sealed and directed as the Constitution requires, to the Secretary of the United States in Congress assembled; that the Senators and Representatives should convene, at the Time and Place assigned; that the Senators should appoint a President of the Senate for the sole purpose of receiving opening and counting the Votes for President; and, that after he shall be chosen, Congress, together with the President, should, without Delay, proceed to execute this Constitution.

By the Unanimous Order of the Convention.

G. WASHINGTON, *President.*

W. JACKSON, *Secretary.*

Congress on September 28th, 1787, directed the Constitution so drafted, together with the resolution and the covering letter from the President, "to be transmitted to the several legislatures in order to be submitted to a Convention of Delegates chosen in each State by the people thereof, in conformity to the resolves of this Convention".

On the 4th March, 1789, the day which had been fixed for commencing the operations of Government under the new Constitution, it had been ratified by the Conventions chosen in each State to consider it as follows:—Delaware, December 7, 1787; Pennsylvania, December 12, 1787; New Jersey, December 18, 1787; Georgia, January 2, 1788; Connecticut, January 9, 1788; Massachusetts, February 6, 1788; Maryland, April 28, 1788; South Carolina, May 23, 1788; New Hampshire, June 21, 1788; Virginia, June 26, 1788; and New York, July 26, 1788.

The States of North Carolina and Rhode Island, however, still remained out, but on the 21st November, 1789, North Carolina ratified the Constitution, and on the 29th May, 1789, Rhode Island also ratified it. And on January 10th, 1789, the State of Vermont which had not been in the Original Confederation, also ratified the Constitution, and was, by an act of Congress on February 19, 1791, "received and admitted into this Union as a new and entire member of the United States".

When adopting the Constitution, several of these State Conventions transmitted, with their resolutions of acceptance, requests that certain amendments should be made. Some of these were ultimately adopted, and they form

the ten amendments of 1791. These form what is known as the "Bill of Rights". Eleven further amendments were adopted from time to time. Of these, three (the Thirteenth, Fourteenth, and Fifteenth Amendments) were adopted as a direct result of the American Civil War. Consequently it appears that under normal circumstances there have been only eight amendments to the Constitution in over one hundred and sixty years.

CONSTITUTION
OF
THE UNITED STATES OF AMERICA
1787,
With subsequent Amendments

We, the people of the United States, in order to form a more perfect Union, establish justice, insure domestic tranquillity, provide for the common defence, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America.

Article I

Section 1.—All legislative powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

Section 2.—*(1) The House of Representatives shall be composed of members chosen every second year by the people of the several States, and the electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State Legislature.

(2) No person shall be a Representative who shall not have attained to the age of twenty-five years, and been seven years a citizen of the United States, and who shall not, when elected, be an inhabitant of that State in which he shall be chosen.

*(3) Representatives and direct taxes shall be apportioned among the several States which may be included within this Union according to their respective numbers, which shall be determined by adding to the whole number of free persons, including those bound to service for a term of years, and excluding Indians not taxed, three-fifths of all other persons. The actual enumeration shall be made within three years after the first meeting of the Congress of the United States, and within every subsequent term of ten years, in such manner as they shall by law direct. The number of Representatives shall not exceed one for every thirty thousand, but each State shall have at least one Representative ; and until such enumeration shall be made, the State of New Hampshire shall be entitled to choose 3 ; Massachusetts, 8 ; Rhode Island and Providence Plantations, 1 ; Connecticut, 5 ; New York, 6 ; New Jersey, 4 ; Pennsylvania, 8 ; Delaware, 1 ; Maryland, 6 ; Virginia, 10 ; North Carolina, 5 ; South Carolina, 5 ; and Georgia, 3.

(4) When vacancies happen in the representation from any State, the Executive Authority thereof shall issue writs of election to fill such vacancies

(5) The House of Representatives shall choose their Speaker and other officers, and shall have the sole power of impeachment.

Section 3.—†(1) The Senate of the United States shall be composed of two Senators from each State, chosen by the Legislature thereof, for six years ; and each Senator shall have one vote.

* This clause is amended by Article XIV. Amendments.

† This clause is amended by Article XVII. Amendments.

*(2) Immediately after they shall be assembled in consequence of the first election, they shall be divided as equally as may be into three classes. The seats of the Senators of the first class shall be vacated at the expiration of the second year, of the second class at the expiration of the fourth year, and of the third class at the expiration of the sixth year, so that one-third may be chosen every second year ; and if vacancies happen by resignation, or otherwise, during the recess of the Legislature of any State, the Executive thereof may make temporary appointments until the next meeting of the Legislature, which shall then fill such vacancies.

(3) No person shall be a Senator who shall not have attained to the age of thirty years, and been nine years a citizen of the United States, and who shall not, when elected, be an inhabitant of that State for which he shall be chosen.

(4) The Vice-President of the United States shall be President of the Senate, but shall have no vote unless they be equally divided.

(5) The Senate shall choose their other officers and also President *pro tempore*, in the absence of the Vice-President, or when he shall exercise the office of President of the United States.

(6) The Senate shall have the sole power to try all impeachments. When sitting for that purpose, they shall be on oath or affirmation. When the President of the United States is tried, the Chief Justice shall preside ; and no person shall be convicted without the concurrence of two-thirds of the members present.

(7) Judgment in cases of impeachment shall not extend further than to removal from office, and disqualification to hold and enjoy any office of honour, trust, or profit under the United States ; but the party convicted shall nevertheless be liable and subject to indictment, trial, judgment and punishment, according to law.

Section 4.—(1) The times, places and manner of holding elections for Senators and Representatives shall be prescribed in each State by the Legislature thereof ; but the Congress may at any time by law make or alter such regulations, except as to the places of choosing Senators.

(2) The Congress shall assemble at least once in every year, and such meeting shall be on the first Monday in December, unless they shall by law appoint a different day.

Section 5.—(1) Each House shall be the judge of the elections, returns and qualifications of its own members, and a majority of each shall constitute a quorum to do business ; but a smaller number may adjourn from day to day, and may be authorized to compel the attendance of absent members in such manner and under such penalties as each House may provide.

(2) Each House may determine the rules of its proceedings, punish its members for disorderly behaviour, and with the concurrence of two-thirds expel a member.

(3) Each House shall keep a journal of its proceedings, and from time to time publish the same, excepting such parts as may in their judgment require secrecy ; and the yeas and nays of the members of either House on any question shall, at the desire of one-fifth of those present, be entered on the journal.

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*This clause is amended by Article XVII, Amendments.

(4) Neither House, during the session of Congress, shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which the two Houses shall be sitting.

Section 6.—(1) The Senators and Representatives shall receive a compensation for their services, to be ascertained by law, and paid out of the Treasury of the United States. They shall in all cases, except treason, felony, and breach of the peace, be privileged from arrest during their attendance at the session of their respective Houses, and in going to and returning from the same; and for any speech or debate in either House they shall not be questioned in any other place.

(2) No Senator or Representative shall, during the time for which he was elected, be appointed to any civil office under the authority of the United States which shall have been created, or the emoluments whereof shall have been increased during such time; and no person holding any office under the United States shall be a member of either House during his continuance in office.

Section 7.—(1) All bills for raising revenue shall originate in the House of Representatives but the Senate may propose or concur with amendments as on other bills.

(2) Every bill which shall have passed the House of Representatives and the Senate shall, before it becomes a law, be presented to the President of the United States; if he approves, he shall sign it, but if not, he shall return it, with his objections, to that House in which it shall have originated, who shall enter the objections at large on their journal, and proceed to reconsider it. If after such reconsideration two-thirds of that House shall agree to pass the bill, it shall be sent, together with the objections, to the other Houses by which it shall likewise be reconsidered; and if approved by two-thirds of that House it shall become a law. But in all such cases the votes of both Houses shall be determined by yeas and nays and the names of the persons voting for and against the bill shall be entered on the journal of each House respectively. If any bill shall not be returned by the President within ten days (Sundays excepted) after it shall have been presented to him, the same shall be a law in like manner as if he had signed it, unless the Congress by their adjournment prevent its return, in which case it shall not be a law.

(3) Every order, resolution, or vote to which the concurrence of the Senate and House of Representatives may be necessary (except on a question of adjournment) shall be presented to the President of the United States; and before the same shall take effect shall be approved by him, or being disapproved by him, shall be repassed by two-thirds of the Senate and the House of Representatives, according to the rules and limitations prescribed in the case of a bill.

Section 8.—The Congress shall have power;

(1) To lay and collect taxes, duties, imposts, and excises, to pay the debts and provide for the common defence and general welfare of the United States; but all duties, imposts, and excises shall be uniform throughout the United States.

(2) To borrow money on the credit of the United States.

(3) To regulate commerce with foreign nations, and among the several States, and with the Indian tribes.

(4) To establish an uniform rule of naturalization and uniform laws on the subject of bankruptcies throughout the United States.

(5) To coin money, regulate the value thereof, and of foreign coin, and fix the standard of weights and measures.

(6) To provide for the punishment of counterfeiting the securities and current coin of the United States.

(7) To establish post-offices and post-roads.

(8) To promote the progress of science and useful arts by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries.

(9) To constitute tribunals inferior to the Supreme Court.

(10) To define and punish piracies and felonies committed on the high seas, and offences against the law of nations.

(11) To declare war, grant letters of marque and reprisal, and make rules concerning captures on land and water.

(12) To raise and support armies, but no appropriations of money to that use shall be for a longer term than two years.

(13) To provide and maintain a navy.

(14) To make rules for the government and regulation of the land and naval forces.

(15) To provide for calling forth the militia to execute the laws of the Union, suppress insurrections, and repel invasions.

(16) To provide for organizing, arming, and disciplining the militia, and for governing such part of them as may be employed in the service of the United States, reserving to the States respectively the appointment of the officers, and the authority of training the militia according to the discipline prescribed by Congress.

(17) To exercise exclusive legislation in all cases whatsoever over such district (not exceeding ten miles square) as may by cession of particular States and the acceptance of Congress, become the seat of Government of the United States, and to exercise like authority over all places, purchased by the consent of the Legislature of the State in which the same shall be, for the erection of forts, magazines, arsenals, dock-yards, and other needful buildings; and

(18) To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the Government of the United States, or in any department or officer thereof.

Section 9.—(1) The migration or importation of such persons as any of the States now existing shall think proper to admit shall not be prohibited by the Congress prior to the year one thousand eight hundred and eight, but a tax or duty may be imposed on such importation, not exceeding ten dollars for each person.

(2) The privilege of the writ of *habeas corpus* shall not be suspended, unless when in cases of rebellion or invasion the public safety may require it.

(3) No bill of attainder or *ex post facto* law shall be passed.

*(4) No capitation or other direct tax shall be laid, unless in proportion to the census or enumeration hereinbefore directed to be taken.

(5) No tax or duty shall be laid on articles exported from any State.

(6) No preference shall be given by any regulation of commerce or revenue to the ports of one State over those of another; nor shall vessels bound to or from one State be obliged to enter, clear, or pay duties in another.

(7) No money shall be drawn from the Treasury but in consequence of appropriations made by law; and a regular statement and account of the receipts and expenditures of all public money shall be published from time to time.

(8) No title of nobility shall be granted by the United States; and no person holding any office of profit or trust under them shall, without the consent of the Congress, accept of any present, emolument, office, or title of any kind whatever from any king, prince, or foreign State.

Section 10.—(1) No State shall enter into any treaty, alliance or confederation, grant letters of marque and reprisal, coin money, emit bills of credit, make anything but gold and silver coin a tender in payment of debts, pass any bill of attainder, *ex post facto* law, or law impairing the obligation of contracts, or grant any title of nobility.

(2) No State shall, without the consent of the Congress, lay any imposts or duties on imports or exports, except what may be absolutely necessary for executing its inspection laws, and the net produce of all duties and imposts, laid by any State on imports or exports, shall be for the use of the Treasury of the United States; and all such laws shall be subject to the revision and control of the Congress.

(3) No State shall, without the consent of the Congress lay any duty on tonnage, keep troops or ships of war in time of peace enter into any agreement or compact with another State, or with a foreign power, or engage in war, unless actually invaded, or in such imminent danger as will not admit of delay.

Article II

Section 1.—(1) The Executive power shall be vested in a President of the United States of America. He shall hold his office during the term of four years, and, together with the Vice-President, chosen for the same term, be elected as follows:—

(2) Each State shall appoint, in such manner as the Legislature thereof may direct, a number of electors, equal to the whole number of Senators and Representatives to which the State may be entitled in the Congress; but no Senator or Representative or person holding an office of trust or profit under the United States shall be appointed an elector.

†(3) The electors shall meet in their respective States and vote by ballot for two persons, of whom one at least shall not be an inhabitant of the same State with themselves. And they shall make a list of all the persons voted for, and of the number of votes for each, which list they shall sign and certify and transmit, sealed, to the seat of the Government of the United States, directed to the President of the Senate. The President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates and the votes shall then be counted. The person having the greatest number

*This clause is amended by Article XVI, Amendments.
†This clause is superseded by Article XII, Amendments.

of votes shall be the President, if such number be a majority of the whole number of electors appointed ; and if there be more than one who have such majority, and have an equal number of votes, then the House of Representatives shall immediately choose by ballot one of them for President ; and if no person have a majority, then from the five highest on the list the said House shall in like manner choose the President. But in choosing the President, the vote shall be taken by States, the representation from each State having one vote. A quorum, for this purpose, shall consist of a member or members from two-thirds of the States, and a majority of all the States shall be necessary to a choice. In every case, after the choice of the President, the person having the greatest number of votes of the electors shall be the Vice-President. But if there should remain two or more who have equal votes, the Senate shall choose from them by ballot the Vice-President.

(4) The Congress may determine the time of choosing the electors and the day on which they shall give their votes, which day shall be the same throughout the United States.

(5) No person except a natural born citizen, or a citizen of the United States at the time of the adoption of this Constitution, shall be eligible to the office of President ; neither shall any person be eligible to that office who shall not have attained to the age of thirty-five years and been fourteen years a resident within the United States.

(6) In case of the removal of the President from office, or of his death resignation, or inability to discharge the powers and duties of the said office the same shall devolve on the Vice-President, and the Congress may by law provide for the case of removal, death, resignation, or inability, both of the President and Vice-President, declaring what officer shall then act as President, and such officer shall act accordingly until the disability be removed or a President shall be elected.

(7) The President shall, at times stated, receive for his services a compensation which shall neither be increased nor diminished during the period for which he shall have been elected, and he shall not receive within that period any other emolument from the United States, or any of them.

(8) Before he enters on the execution of his office he shall take the following oath or affirmation ;

" I do solemnly swear (or affirm) that I will faithfully execute the office of President of the United States, and will, to the best of my ability, preserve, protect, and defend the Constitution of the United States."

Section 2.—(1) The President shall be Commander-in-Chief of the Army and Navy of the United States, and of the militia of the several States when called into the actual service of the United States ; he may require the opinion, in writing, of the principal officer in each of the executive departments, upon any subject relating to the duties of their respective offices, and he shall have power to grant reprieves and pardons for offences against the United States except in case of impeachment.

(2) He shall have power, by and with the advice and consent of the Senate to make treaties, provided two-thirds of the Senators present concur ; and he shall nominate and by and with the advice and consent of the Senate shall appoint ambassadors, other public ministers and consuls, judges of the Supreme Court and all other officers of the United States whose appointments are not herein otherwise provided for, and which shall be established by law ; but the

Congress may by law vest the appointment of such inferior officers as they think proper in the President alone, in the Courts of law, or in the heads of departments.

(3) The President shall have power to fill up all vacancies that may happen during the recess of the Senate by granting commissions, which shall expire at the end of their next session.

Section 3.—He shall from time to time give to the Congress information of the state of the Union, and recommend to their consideration such measures as he shall judge necessary and expedient ; he may, on extraordinary occasions, convene both Houses, or either of them, and in case of disagreement between them with respect to the time of adjournment, he may adjourn them to such time as he shall think proper ; he shall receive ambassadors and other public ministers ; he shall take care that the laws be faithfully executed, and shall commission all the officers of the United States.

Section 4.—The President, Vice-President, and all civil officers of the United States shall be removed from office on impeachment for, and conviction of, treason, bribery, or other high crimes and misdemeanours.

Article III

Section 1.—The judicial power of the United States shall be vested in one Supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish. The Judges, both of the Supreme and inferior Courts, shall hold their offices during good behaviour, and shall at stated times receive for their services a compensation which shall not be diminished during their continuance in office.

Section 2.—(1) The judicial power shall extend to all cases in law and equity arising under this Constitution, the laws of the United States, and treaties made, or which shall be made, under their authority ; to all cases affecting ambassadors, other public ministers and consuls ; to all cases of admiralty and maritime jurisdiction ; to controversies to which the United States shall be a party ; to controversies between two or more States, between a State and citizens of another State, between citizens of different States, between citizens of the same State claiming lands under grants of different States, and between a State, or the citizens thereof, and foreign States, citizens, or subjects.

(2) In all cases affecting ambassadors, other public ministers and consuls, and those in which a State shall be party, the Supreme Court shall have original jurisdiction. In all the other cases before mentioned the Supreme Court shall have appellate jurisdiction both as to law and fact, with such exceptions and under such regulations as the Congress shall make.

(3) The trial of all crimes, except in cases of impeachment, shall be by jury, and such trial shall be held in the State where the said crimes shall have been committed, but when not committed within any State the trial shall be at such place or places as the Congress may by law have directed.

Section 3.—(1) Treason against the United States shall consist only in levying war against them, or in adhering to their enemies, giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open Court.

(2) The Congress shall have power to declare the punishment of treason but no attainder of treason shall work corruption of blood or forfeiture except during the life of the person attainted.

Article IV

Section 1.—Full faith and credit shall be given in each State to the public acts, records and judicial proceedings of every other State. And the Congress may by general laws prescribe the manner in which such acts, records and proceedings shall be proved, and the effect thereof.

Section 2.—(1) The citizens of each State shall be entitled to all privileges and immunities of citizens in the several States.

(2) A person charged in any State with treason, felony, or other crime, who shall flee from justice, and be found in another State, shall, on demand of the Executive authority of the State from which he fled, be delivered up, to be removed to the State having jurisdiction of the crime.

(3) No person held to service or labour in one State, under the laws thereof, escaping into another shall, in consequence of any law or regulation therein, be discharged from such service or labour, but shall be delivered up on claim of the party to whom such service or labour may be due.

Section 3.—(1) New States may be admitted by the Congress into this Union; but no new State shall be formed or erected within the jurisdiction of any other State, nor any State be formed by the junction of two or more States, or parts of States, without the consent of the Legislatures of the States concerned, as well as of the Congress.

(2) The Congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States; and nothing in this Constitution shall be so construed as to prejudice any claims of the United States or of any particular State.

Section 4.—The United States shall guarantee to every State in this Union a republican form of government, and shall protect each of them against invasion, and, on application of the Legislature, or of the Executive (when the Legislature cannot be convened), against domestic violence.

Article V

The Congress, whenever two-thirds of both Houses shall deem it necessary, shall propose amendments to this Constitution, or, on the application of the Legislatures of two-thirds of the several States, shall call a convention for proposing amendments, which, in either case, shall be valid to all intents and purposes, as part of this Constitution, when ratified by the Legislatures of three-fourths of the several States, or by conventions in three-fourths thereof, as the one or the other mode of ratification may be proposed by the Congress; provided that no amendment which may be made prior to the year one thousand eight hundred and eight shall in any manner affect the first and fourth clauses in the Ninth Section of the First Article; and that no State, without its consent, shall be deprived of its equal suffrage in the Senate.

Article VI

(1) All debts contracted and engagements entered into before the adoption of this Constitution shall be as valid against the United States under this Constitution as under the Confederation.

(2) This Constitution and the laws of the United States which shall be made in pursuance thereof and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land, and the Judges in every State shall be bound thereby, anything in the Constitution or laws of any State to the contrary notwithstanding.

(3) The Senators and Representatives before mentioned, and the members of the several State Legislatures, and all executive and judicial officers, both of the United States and of the several States, shall be bound by oath or affirmation to support this Constitution; but no religious test shall ever be required as a qualification to any office or public trust under the United States.

Article VII

The ratification of the Conventions of nine States shall be sufficient for the establishment of this Constitution between the States so ratifying the same.

Done in Convention by the unanimous consent of the States present the Seventeenth day of September in the year of our Lord one thousand seven hundred and eighty-seven, and of the Independence of the United States of America the Twelfth. IN WITNESS whereof we have hereunto subscribed our names.

(Here follow the signatures.)

Articles in addition to, and amendment of, the Constitution of the United States of America, proposed by Congress, and ratified by the Legislatures of the several States, pursuant to the Fifth Article of the original Constitution.

*(1791)

Article I

The Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

(1791)

Article II

A well-regulated militia being necessary to the security of a free State, the right of the people to keep and bear arms shall not be infringed.

(1791)

Article III

No soldier shall, in time of peace, be quartered in any house without the consent of the owner, nor in time of war but in a manner to be prescribed by law.

(1791)

Article IV

The right of the people to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

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*The year shown in parentheses is that in which the Amendment came into operation.

(1791) **Article V**

No person shall be held to answer for a capital or otherwise infamous crime unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service in time of war or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty or property, without due process of law; nor shall private property be taken for public use without just compensation.

(1791) **Article VI**

In all criminal prosecutions the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law and to be informed of the nature and cause of the accusation; to be confronted with the witness against him; to have compulsory process for obtaining witnesses in his favour, and to have the assistance of counsel for his defence.

(1791) **Article VII**

In suits at common law, where to value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury shall be otherwise re-examined in any Court of the United States than according to the rules of the common law.

(1791) **Article VIII**

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

(1791) **Article IX**

The enumeration in the Constitution of certain rights shall not be construed to deny or diparage others retained by the people.

(1791) **Article X**

The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

(1798) **Article XI**

The judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States, by citizens of another State, or by citizens or subjects of any foreign State.

(1804) **Article XII**

The electors shall meet in their respective States, and vote by ballot for President and Vice-President, one of whom at least shall not be an inhabitant of the same State with themselves ; they shall name in their ballots the person voted for as President, and in distinct ballots the person voted for as Vice-President, and they shall make distinct lists of all persons voted for as President, and of all persons voted for as Vice-President, and of the number of votes for each, which list they shall sign and certify, and transmit, sealed, to the seat of the Government of the United States, directed to the President of the Senate ; the President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates, and the votes shall then be counted ; the person having the greatest number of votes for President shall be the President, if such number be a majority of the whole number of electors appointed ; and if no person have such majority, then from the persons having the highest numbers, not exceeding three, on the list of those voted for as President, the House of Representatives shall choose immediately, by ballot, the President. But in choosing the President, the votes shall be taken by States, the representation from each State having one vote ; a quorum for this purpose shall consist of a member or members from two-thirds of the States, and a majority of all the States shall be necessary to a choice. And if the House of Representatives shall not choose a President, whenever the right of choice shall devolve upon them, before the fourth day of March next following, then the Vice-President shall act as President, as in the case of the death or other constitutional disability of the President. The person having the greatest number of votes as Vice-President shall be the Vice-President, if such number be a majority of the whole number of electors appointed, and if no person have a majority, then from the two highest numbers on the list the Senate shall choose the Vice-President ; a quorum for the purpose shall consist of two-thirds of the whole number of Senators, and a majority of the whole number shall be necessary to a choice. But no person constitutionally ineligible to the office of President shall be eligible to that of Vice-President of the United States.

(1865) **Article XIII**

Section 1.—Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.

Section 2.—The Congress shall have power to enforce this article by appropriate legislation.

(1868) **Article XIV**

Section 1.—All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States, nor shall any State deprive any person of life, liberty, or property without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws.

Section 2.—Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice-President of the United States, Representatives in Congress, the executive and judicial officers of a State, or the members of the Legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State.

Section 3.—No person shall be a Senator or Representative in Congress or elector of President and Vice-President, or hold any office, civil or military under the United States, or under any State, who, having previously taken an oath, as a member of Congress, or as an officer of the United States, or as a member of any State Legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same or given aid and comfort to the enemies thereof. But Congress may, by a vote of two-third of each House, remove such disability.

Section 4.—The validity of the public debt of the United States, authorised by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection and rebellion, shall not be questioned. But neither the United States nor any State shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations, and claims shall be held illegal and void.

Section 5.—The Congress shall have power to enforce by appropriate legislation the provisions of this article.

(1870) **Article XV**

Section 1.—The right of the citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, colour, or previous condition of servitude.

Section 2.—The Congress shall have power to enforce this article by appropriate legislation.

(1913) **Article XVI**

The Congress shall have power to lay and collect taxes on incomes, from whatever source derived, without apportionment among the several States, and without regard to any census or enumeration.

(1913) **Article XVII**

(1) The Senate of the United States shall be composed of two Senators from each State, elected by the people thereof, for six years, and each Senator shall have one vote. The electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State Legislature.

(2) When vacancies happen in the representation of any State in the Senate the executive authority of such State shall issue writs of election to fill such vacancies : Provided that the Legislature of any State may empower the Executive thereof to make temporary appointments until the people fill the vacancies by election as the Legislature may direct.

(3) This amendment shall not be so construed as to affect the election or terms of any Senator chosen before it becomes valid as part of the Constitution.

(1919) **Article XVIII**

(1) After one year from the ratification of this article the manufacture, sale, or transportation of intoxicating liquors within, the importation thereof into, or the exportation thereof from the United States and all territory subject to this jurisdiction thereof for beverage purposes is hereby prohibited.

(2) The Congress and the several States shall have concurrent power to enforce this Article by appropriate legislation.

(3) This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the Legislatures of the several States, as provided in the Constitution, within seven years from the date of the submission hereof to the States by the Congress.

(1919) **Article XIX**

(1) The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of sex.

(2) The Congress shall have power to enforce the provisions of this Article by appropriate legislation.

(1933) **Article XX**

Section 1.—The terms of the President and Vice-President shall end at Noon on the 20th day of January, and the terms of Senators and Representatives at Noon on the 3rd day of January, of the years in which terms would have ended if this article had not been ratified; and the terms of their successor shall then begin.

Section 2.—The Congress shall assemble at least once in every year, and such meeting shall begin at Noon on the 3rd day of January, unless they shall by law appoint a different day.

Section 3.—If, at the time fixed for the beginning of the term of the President, the President elect shall have died, the Vice-President elect shall become President. If a President shall not have been chosen before the time fixed for the beginning of his term, or if the President elect shall have failed to qualify, then the Vice-President elect shall act as President until a President shall have qualified ; and the Congress may by law provide for the case wherein neither a President elect nor a Vice-President elect shall have qualified, declaring who shall then act as President, or the manner in which one who is to act shall be selected, and such person shall act accordingly until a President or Vice-President shall have qualified.

Section 4.—The Congress may by law provide for the case of the death of any of the persons from whom the House of Representatives may choose a President whenever the right of choice shall have devolved upon them, and for the case of the death of any of the persons from whom the Senate may choose a Vice-President whenever the right of choice shall have devolved upon them.

Section 5.—Sections 1 and 2 shall take effect on the 15th day of October following the ratification of this article.

Section 6.—This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States within seven years from the date of its submission.

(1933)

Article XXI

Section 1.—The eighteenth article of amendment to the Constitution of the United States is hereby repealed.

Section 2.—The transportation or importation into any State, Territory, or possession of the United States for delivery or use therein of intoxicating liquors, in violation of the laws thereof, is hereby prohibited.

Section 3.—This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by conventions in the several States, as provided in the Constitution, within seven years from the date of the submission hereof to the States by the Congress.

THE UNION OF SOVIET SOCIALIST REPUBLICS

Area : 8,173,550 *square miles* (*Figures of 1938*)

Population : 170,467,572 (*Figures of 1939*)

Introduction

The Constitution which is reproduced here is that of 1936. This Constitution had two predecessors. The first was adopted by the fifth Congress of the Soviet on July 10, 1918. It sanctioned much of the Soviet form of government that came into existence more or less spontaneously after the downfall of the monarchy in March, 1917. The State it established was the Russian Socialist Federated Soviet Republic (RSFSR) whose territory was considerably smaller than that of the present Soviet Union since at that time many parts of the country were still held by anti-communist forces. The Constitution of 1918 and its preamble, " The Declaration of the Rights of the Working and Exploited People," were imbued with the militant spirit of the newborn dictatorship of the proletariat. This character was retained in the second Constitution which was adopted by the second All-Union Congress of the Soviets in 1924, after the first All-Union Congress in December, 1922, established the Union of Soviet Socialist Republics. The Union originally was formed by four constituent republics : the RSFSR, the Ukraine, White Russia and Transcaucasia. The Uzbek and the Turkmen constituent republics were carved out in 1924, and the Tadzhik constituent republic in 1929, raising the total number of constituent republics to seven. The Constitution of 1924 provided for a federal form of government. The administrative structure consisted of a pyramid of Soviets (councils) whose territorial jurisdiction was gradually broadened. At the bottom of the pyramid were the village Soviets, then came the country (rayon) and city Soviets ; above them were the Soviets of the territories (Krai), provinces (Oblast), and the constituent republics ; at the very top of the pyramid was the All-Union Congress of the Soviets, in theory the supreme organ of the Union.

The whole of this structure, as has already been pointed out, was permeated with the militant spirit of the proletarian dictatorship. The following categories of citizens were disfranchised : persons employing hired labour for the purpose of extracting profit ; persons living on income not derived from work ; private traders, monks and ministers of religion ; former police officers and members of the former royal family ; lunatics and persons condemned for disgraceful crimes. Moreover the number of deputies sent to the All-Union Soviet and to the Soviets of the constituent republics was one deputy per each 25,000 city electors and one for every 125,000 of the rural population. This allotment gave a definite preponderance to the urban proletariat. The Soviet structure under the first two Constitutions was based on the principle of indirect elections, that is, the deputies to the Soviets ranking above those of the village, were chosen not by the electorate but by the lower Soviets. Voting was carried on by the show of hands instead of by the secret ballot customary in bourgeois democracies. The distribution of the right to vote was somewhat capricious and by no means easy to comprehend, based as it was on a combination of the territorial principle with that of the " unit of production ", that is, some of the electors voted as residents of a certain district, others as employees in a factory or similar establishment.

The first two constitutions, moreover, did not recognize the separation of powers, the traditional segregation of the legislative, executive, and judiciary functions. These were all concentrated in the hands of the All-Union Congress of the Soviets and in the agencies it appointed. The functions of the Soviets which met at long and irregular intervals, were perfunctory and the actual business of government was carried on by officers and organs they elected, under the control, of course, of the Communist Party which was not even mentioned in the first two constitutions.

The All-Union Congress of the Soviets, an assembly of over two thousand members, met at intervals of three or four years, although the Constitution of 1924 provided that it should meet at least once a year. Its chief functions consisted in listening to the declarations of the leaders and in electing the Central Executive Committee which exercised all legislative and executive power in the interval between the meetings of the All-Union Congresses. Since about three fourths of the members of the All-Union Congresses were invariably Communists the list of members of the Central Executive Committee submitted by the leaders was unanimously elected. The Central Executive Committee was composed of two separate bodies: the Council of the Union consisting of several hundred members elected on the basis of population, and the Council of Nationalities, a smaller assembly made up of five members from each of the territorial subdivisions of the Union. A Presidium of eighteen members elected by the Central Executive Committee was an important element in the legislative and administrative machine.

The Central Executive Committee appointed the principal executive organ of the federal government, the Council of People's Commissars of the U.S.S.R., whose functions will be discussed in connection with the Constitution of 1936. Each constituent republic had its own constitution duplicating on a small scale the administrative machinery of the federal government. It must be noted that the administrative structure of the Soviet Union has been subjected to an almost uninterrupted remodelling, a condition that is not only distressing to the student but must also add greatly to the difficulties of the planning bodies.

The decision of the government to endow the country with a new Constitution was announced at the seventh congress of the Soviets in February, 1935, and when the draft of this Constitution was published and submitted to the public in June, 1936, it became practically a duty to join in the discussion. According to Miss Strong 527,000 meetings were held for this purpose and were attended by 36·5 million people. One hundred and fifty-four amendments were suggested, but only 43 changes were made, practically all of them in phraseology. The eighth congress of the Soviets after a ten day discussion unanimously adopted the text of the Constitution on December 5, 1936, which was proclaimed a national holiday.

CONSTITUTION
OF
THE UNION OF SOVIET SOCIALIST REPUBLICS

[As Amended up to February 2, 1944]

CHAPTER I. THE ORGANIZATION OF SOCIETY

Article 1.—The Union of Soviet Socialist Republics is a socialist state of workers and peasants.

Article 2.—The Soviets of Working People's Deputies, which grew and attained strength as a result of the overthrow of the landlords and capitalists and the achievement of the dictatorship of the proletariat, constitute the political foundation of the U. S. S. R.

Article 3.—In the U.S.S.R. all power belongs to the working people of town and country as represented by the Soviet of Working People's Deputies.

Article 4.—The socialist system of economy and the socialist ownership of the means and instruments of production firmly established as a result of the abolition of the capitalist system of economy, the abrogation of private ownership of the means and instruments of production and the abolition of the exploitation of man by man, constitute the economic foundation of the U.S.S.R.

Article 5.—Socialist property in the U.S.S.R. exists either in the form of state property (the possession of the whole people), or in the form of co-operative and collective-farm property (property of a collective farm or property of a co-operative association).

Article 6.—The land, its natural deposits, waters, forests, mills, factories, mines, rail, water and air transport, banks, post, telegraph, and telephones, large state-organized agricultural enterprises (state farms, machine and tractor stations and the like) as well as municipal enterprises and the bulk of the dwelling houses in the cities and industrial localities, are state property, that is, belong to the whole people.

Article 7.—Public enterprises in collective farms and cooperative organizations, with their livestock and implements, the products of the collective farms and co-operative organizations, as well as their common buildings, constitute the common, socialist property of the collective farms and co-operative organizations.

In addition to its basic income from the public, collective-farm enterprise, every household in a collective farm has for its personal use a small plot of land attached to the dwelling and, as its personal property, a subsidiary establishment on the plot, a dwelling house, livestock, poultry and minor agricultural implements—in accordance with the statutes of the agricultural artel.

Article 8.—The land occupied by collective farms is secured to them for their use free of charge and for an unlimited time, that is, in perpetuity.

Article 9.—Alongside the socialist system of economy, which is the predominant form of economy in the U.S.S.R., the law permits the small private economy of individual peasants and handicraftsmen based on their personal labor and precluding the exploitation of the labor of others.

Article 10.—The right of citizens to personal ownership of their incomes from work and of their savings, of their dwelling houses and subsidiary house-

hold economy, their household furniture and utensils and articles of personal use and convenience, as well as the right of inheritance of personal property of citizens, is protected by law.

Article 11.—The economic life of the U.S.S.R. is determined and directed by the state national economic plan with the aim of increasing the public wealth, of steadily improving the material conditions of the working people and raising their cultural level, of consolidating the independence of the U.S.S.R. and strengthening its defensive capacity.

Article 12.—In the U.S.S.R. work is a duty and a matter of honor for every able-bodied citizen, in accordance with the principle: "He who does not work, neither shall he eat."

The principle applied in the U.S.S.R. is that of socialism: "From each according to his ability, to each according to his work."

CHAPTER II. THE ORGANIZATION OF THE STATE

Article 13.—The Union of Soviet Socialist Republics is a federal state, formed on the basis of the voluntary association of Soviet Socialist Republics having equal rights, namely:

The Russian Soviet Federated Socialist Republic
The Ukrainian Soviet Socialist Republic
The Byelorussian Soviet Socialist Republic
The Azerbaidjan Soviet Socialist Republic
The Georgian Soviet Socialist Republic
The Armenian Soviet Socialist Republic
The Turkmen Soviet Socialist Republic
The Uzbek Soviet Socialist Republic
The Tadjik Soviet Socialist Republic
The Kazakh Soviet Socialist Republic
The Kirghiz Soviet Socialist Republic
The Karelo-Finnish Soviet Socialist Republic
The Moldavian Soviet Socialist Republic
The Lithuanian Soviet Socialist Republic
The Latvian Soviet Socialist Republic
The Estonian Soviet Socialist Republic.

Article 14.—The jurisdiction of the Union of Soviet Socialist Republics as represented by its highest organs of state authority and organs of government, covers:

(*a*) Representation of the Union in international relations, conclusion and ratification of treaties with other states; and the establishment of the general character of the relations between the Union Republic and foreign States;

(*b*) Questions of war and peace;

(*c*) Admission of new republics into the U.S.S.R.;

(*d*) Control over the observance of the Constitution of the U.S.S.R. and ensuring conformity of the Constitutions of the Union Republics with the Constitution of the U.S.S.R.;

(*e*) Confirmation of alterations of boundaries between Union Republics;

(*f*) Confirmation of the formation of new Territories and Regions and also of new Autonomous Republics within Union Republics;

(*g*) Organization of the defense of the U.S.S.R. and direction of all the armed forces of the U.S.S.R.; the establishment of the guiding principles or the organization of the military formations of the Union Republics;

(*h*) Foreign trade on the basis of state monopoly ;

(*i*) Safeguarding the security of the state ;

(*j*) Establishment of the national economic plans of the U.S.S.R. ;

(*k*) Approval of the single state budget of the U.S.S.R. as well as of the taxes and revenues which go to the all-Union Republican and local budgets ;

(*l*) Administration of the banks, industrial and agricultural establishments and enterprises and trading enterprises of all-Union importance ;

(*m*) Administration of transport and communications ;

(*n*) Direction of the monetary and credit system ;

(*o*) Organization of state insurance ;

(*p*) Raising and granting of loans ;

(*q*) Establishment of the basic principles for the use of land as well as for the use of natural deposits, forests and waters ;

(*r*) Establishment of the basic principles in the spheres of education and public health ;

(*s*) Organization of a uniform system of national economic statistics ;

(*t*) Establishment of the principles of labor legislation ;

(*u*) Legislation on the judicial system and judicial procedure ; criminal and civil codes ;

(*v*) Laws on citizenship of the Union ; laws on the rights of foreigners ;

(*w*) Issuing of all-Union acts of amnesty.

Article 15.—The sovereignty of the Union Republics is limited only within the provisions set forth in Article 14 of the Constitution of the U.S.S.R. Outside of these provisions, each Union Republic exercises state authority independently. The U.S.S.R. protects the sovereign rights of the Union Republics.

Article 16.—Each Union Republic has its own Constitution, which takes account of the specific features of the Republic and is drawn up in full conformity with the Constitution of the U.S.S.R.

Article 17.—To every Union Republic is reserved the right freely to secede from the U.S.S.R.

Article 18.—The territory of a Union Republic may not be altered without its consent.

(*a*) Each Union Republic has the right to enter into direct relations with foreign states, to conclude agreements with them and exchange diplomatic and consular representatives with them;

(*b*) Each Union Republic has its republican military formation.

Article 19.—The laws of the U.S.S.R. have the same force within the territory of every Union Republic.

Article 20.—In the event of a discrepancy between a law of a Union Republic and an all-Union law, the all-Union law prevails.

Article 21.—A single Union citizenship is established for all citizens of the U.S.S.R.

Every citizen of a Union Republic is a citizen of the U.S.S.R.

Article 22.—The Russian Soviet Federated Socialist Republic consists of the Altai, Krasnodar, Krasnoyarsk, Ordjonikidze, Maritime and Khabarovsk Territories ; the Archangel, Vologda, Voronezh, Gorky, Ivanovo, Irkutsk

Kalinin, Kirov, Kuibyshev, Kursk, Leningrad, Molotov, Moscow, Murmansk, Novosibirsk, Omsk, Orel, Penza, Rostov, Ryazan, Saratov, Sverdlovsk, Smolensk, Stalingrad, Tambov, Tula, Chelyabinsk, Chita, Chkalov and Yaroslavl Regions[1]; The Tatar, Bashkir, Daghestan, Buryat-Mongolian, Kabardino-Balkarian, Kalmyk, Komi, Crimean, Mari, Mordovian, Volga German[2], North Ossetian, Udmurt, Checheno-Ingush, Chuvash and Yakut Autonomous Soviet Socialist Republics; and the Adygei, Jewish, Karachai, Oirot, Khakass and Cherkess Autonomeus Regions.

Article 23.—The Ukrainian Soviet Socialist Republic consists of the Vinnitsa, Volynsk, Voroshilovgrad, Dnepropetrovsk, Drogobych, Zhitomir, Zaporozhe, Izmail, Kamenets-Podolsk, Kiev, Kirovograd, Lvov, Nikolaev, Odessa, Poltava, Rovno, Stalino, Stanislav, Sumy, Tarnopol, Kharkov, Chernigov and Chernovitsy Regions.

Article 24.—The Azerbaidjan Soviet Socialist Republic includes the Nakhichevan Autonomous Soviet Socialist Republic and the Nagorno-Karabakh Autonomous Region.

Article 25.—The Georgian Soviet Socialist Republic includes the Abkhazian Autonomous Soviet Socialist Republic, the Adjar Autonomous Soviet socialist Republic and the South Ossetian Autonomous Region.

Article 26.—The Uzbek Soviet Socialist Republic consists of the Bukhara, Samarkand, Tashkent, Ferghana, and Khorezm Regions, and the Kara-Kalpak Autonomous Soviet Socialist Republic.

Article 27.—The Tadjik Soviet Socialist Republic consists of the Gram Kuliab, Leninabad and Stalinabad Regions, and the Gorno-Badakhshan Autonomous Region.

Article 28.—The Kazakh Soviet Socialist Republic consists of the Akmolinsk, Aktyubinsk, Alma-Ata, East Kazakhstan, Guryev, Djambul, West Kazakhstan, Karaganda, Kzyl-Orda, Kustanai, Pavlodar, North Kazakhstan, Semipalatinsk, and South Kazakhstan Regions.

Article 29.—The Byelorussian Soviet Socialist Republic consists of the Baranovichi, Byelostok, Brest, Vileika, Vitebsk, Gomel, Minsk, Moghilev, Pinsk and Polessy Regions.

Article 29-A.—The Turkmen Soviet Socialist Republic consists of the Ashkhabad, Krasnovodsk, Mari, Tashauz and Chardzhou Regions.

Article 29-B.—The Kirghiz Soviet Socialist Republic consists of the Dzhalal-Abad, Issyk-Kul, Osh, Tian-Shan and Frunze Regions.

CHAPTER III. THE HIGHEST ORGANS OF STATE AUTHORITY OF THE UNION OF SOVIET SOCIALIST REPUBLICS

Article 30.—The highest organ of state authority of the U.S.S.R. is the Supreme Soviet of the U.S.S.R.

Article 31.—The supreme Soviet of the U.S.S.R. exercises all rights vested in the Union of Soviet Socialist Republics in accordance with Article 14 of the Constitution, in so far as they do not, by virtue of the Constitution, come within the jurisdiction of organs of the U.S.S.R. that are accountable to the

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[1] During the war, there have been established the Ulianov, Kemerovo and Kurgan Regions in addition to those named above.

[2] The Volga German Republic was abolished on September 24, 1941, by a decree of the Presidium of the Supreme Soviet of the U.S.S.R. (*New York Times*, Sept 25, 1941), as a result of their failure to report on preparations for diversion being conducted by many among them. Their territory was divided between two adjoining Regions.

Supreme Soviet of the U.S.S.R., that is, the Presidium of the Supreme Soviet of the U.S.S.R., the Council of People's Commissars of the U.S.S.R. and the People's Commissariats of the U.S.S.R.

Article 32.—The legislative power of the U.S.S.R. is exercised exclusively by the Supreme Soviet of the U.S.S.R.

Article 33.—The Supreme Soviet of the U.S.S.R. consists of two Chambers; the Soviet of the Union and the Soviet of Nationalities.

Article 34.—The Soviet of the Union is elected by the citizens of the U.S.S.R. according to electoral areas on the basis of one deputy for every 300,000 of the population.

Article 35.—The Soviet of Nationalities is elected by the citizens of the U.S.S.R., according to Union and Autonomous Republics, Autonomous Regions and national areas on the basis of twenty-five deputies from each Union Republic, eleven deputies from each Autonomous Republic, five deputies from each Autonomous Region and one deputy from each national area.

Article 36.—The Supreme Soviet of the U.S.S.R. is elected for a term of four years.

Article 37.—Both Chambers of the Supreme Soviet of the U. S. S. R., the Soviet of the Union and the Soviet of Nationalities, have equal rights.

Article 38.—The Soviet of the Union and the Soviet of nationalities have an equal right to initiate legislation.

Article 39.—A law is considered adopted if passed by both Chambers of the Supreme Soviet of the U.S.S.R. by a simple majority vote in each.

Article 40.—Laws passed by the Supreme Soviet of the U.S.S.R. are published in the languages of the Union Republics over the signatures of the President and Secretary of the Presidium of the Supreme Soviet of the U.S.S.R.

Article 41.—Sessions of the Soviet of the Union and the Soviet of Nationalities begin and terminate simultaneously.

Article 42.—The Soviet of the Union elects a Chairman of the Soviet of the Union and two Vice-Chairmen.

Article 43.—The Soviet of Nationalities elects a Chairman of the Soviet of Nationalities and two Vice-Chairmen.

Article 44.—The Chairmen of the Soviet of the Union and the Soviet of Nationalities preside over the sittings of the respective Chambers and direct the procedure of these bodies.

Article 45.—Joint sittings of both Chambers of the Supreme Soviet of the U.S.S.R. are presided over alternately by the Chairman of the Soviet of the Union and the Chairman of the Soviet of Nationalities.

Article 46.—Sessions of the Supreme Soviet of the U.S.S.R. are convened by the Presidium of the Supreme Soviet of the U.S.S.R. twice a year.

Special sessions are convened by the Presidium of the Supreme Soviet of the U.S.S.R. at its discretion or on the demand of one of the Union Republics.

Article 47.—In the event of disagreement between the Soviet of the Union and the Soviet of Nationalities, the question is referred for settlement to a conciliation commission formed on a parity basis. If the conciliation commission fails to arrive at an agreement, or if its decision fails to satisfy one of the Chambers, the question is considered for a second time by the Chamber.

Failing agreement between the two Chambers, the Presidium of the Supreme Soviet of the U.S.S.R. dissolves the Supreme Soviet of the U.S.S.R. and orders new elections.

Article 48.—The Supreme Soviet of the U.S.S.R. at a joint sitting of both Chambers elects the Presidium of the Supreme Soviet of the U.S.S.R., consisting of a President of the Presidium of the Supreme Soviet of the U.S.S.R., sixteen Vice-Presidents, a Secretary of the Presidium and twenty-four members of the Presidium.

The Presidium of the Supreme Soviet of the U.S.S.R. is accountable to the Supreme Soviet of the U.S.S.R. for all its activities.

Article 49.—The Presidium of the Supreme Soviet of the U.S.S.R.:

(*a*) Convenes the sessions of the Supreme Soviet of the U.S.S.R.;

(*b*) Interprets laws of the U.S.S.R. in operation, issues decrees;

(*c*) Dissolves the Supreme Soviet of the U.S.S.R. in conformity with Article 47 of the Constitution of the U.S.S.R. and orders new elections;

(*d*) Conducts referendums on its own initiative or on the demand of one of the Union Republics;

(*e*) Annuls decisions and orders of the Council of People's Commissars of the U.S.S.R. and of the Councils of People's Commissars of the Union Republics in case they do not conform to law;

(*f*) In the intervals between sessions of the Supreme Soviet of the U.S.S.R., relieves of their posts and appoints People's Commissars of the U.S.S.R. on the recommendation of the Chairman of the Council of People's Commissars of the U.S.S.R., subject to subsequent confirmation by the Supreme Soviet of the U.S.S.R.;

(*g*) Awards decorations and confers titles of honor of the U.S.S.R.;

(*h*) Exercises the right of pardon;

(*i*) Appoints and removes the higher commands of the armed forces of the U.S.S.R.;

(*j*) In the intervals between sessions of the Supreme Soviet of the U.S.S.R., proclaims a state of war in the event of armed attack on the U.S.S.R., or whenever necessary to fulfill international treaty obligations concerning mutual defence against aggression;

(*k*) Orders general or partial mobilization;

(*l*) Ratifies international treaties;

(*m*) Appoints and recalls plenipotentiary representatives of the U.S.S.R., to foreign states;

(*n*) Receives the credentials and letters of recall of diplomatic representatives accredited to it by foreign states;

(*o*) Proclaims martial law in separate localities or throughout the U.S.S.R., in the interests of the defense of the U.S.S.R. or for the purpose of ensuring public order and state security.

Article 50.—The Soviet of the Union and the Soviet of Nationalities elect Credentials Commissions which verify the credentials of the members of the respective Chambers.

On the recommendation of the Credentials Commissions, the Chamber decide either to endorse the credentials or to annul the election of the deputies concerned.

Article 51.—The Supreme Soviet of the U.S.S.R., when it deems necessary, appoints commissions of inquiry and investigation on any matter.

It is the duty of all institutions and public servants to comply with the demands of these commissions and to submit to them the necessary materials and documents.

Article 52.—A member of the Supreme Soviet of the U.S.S.R. may not be prosecuted or arrested without the consent of the Supreme Soviet of the U.S.S.R., and during the period when the Supreme Soviet of the U.S.S.R. is not in session, without the consent of the Presidium of the Supreme Soviet of the U.S.S.R.

Article 53.—On the expiration of the term of office of the Supreme Soviet of the U.S.S.R., or after the dissolution of the Supreme Soviet prior to the expiration of its term of office, the Presidium of the Supreme Soviet of the U.S.S.R., retains its powers until the formation of a new Presidium of the Supreme Soviet of the U.S.S.R., by the newly-elected Supreme Soviet of the U.S.S.R.

Article 54.—On the expiration of the term of office of the Supreme Soviet of the U.S.S.R., or in the event of its dissolution prior to the expiration of its term of office, the Presidium of the Supreme Soviet of the U.S.S.R. orders new elections to be held within a period not exceeding two months from the date of expiration of the term of office or dissolution of the Supreme Soviet of the U.S.S.R.

Article 55.—The newly-elected Supreme Soviet of the U.S.S.R. is convened by the outgoing Presidium of the Supreme Soviet of the U.S.S.R. not later than one month after the elections.

Article 56.—The Supreme Soviet of the U.S.S.R. at a joint sitting of both Chambers, appoints the Government of the U.S.S.R., namely, the Council of People's Commissars of the U.S.S.R.

CHAPTER IV. THE HIGHEST ORGANS OF STATE AUTHORITY OF THE UNION REPUBLICS

Article 57.—The highest organ of state authority of a Union Republic is the Supreme Soviet of the Union Republic.

Article 58.—The Supreme Soviet of a Union Republic is elected by the citizens of the Republic for a term of four years.

The basis of representation is established by the Constitution of the Union Republic.

Article 59.—The Supreme Soviet of a Union Republic is the sole legislative organ of the Republic.

Article 60.—The Supreme Soviet of a Union Republic:

(*a*) Adopts the Constitution of the Republic and amends it in conformity with Article 16 of the Constitution of the U.S.S.R.;

(*b*) Confirms the Constitutions of the Autonomous Republics forming part of it and defines the boundaries of their territories;

(*c*) Approves the national economic plan and also the budget of the Republic;

(*d*) Exercises the right of amnesty and pardon of citizens sentenced by the judicial organs of the Union Republic;

(*e*) Establishes the representation of the Union Republics in international relations;

(*f*) Establishes the method of the creation of military formations of the Union Republic.

Article 61.—The Supreme Soviet of a Union Republic elects the Presidium of the Supreme Soviet of the Union Republic, consisting of a Chairman of the Presidium of the Supreme Soviet of the Union Republic, Vice-Chairmen, a Secretary of the Presidium and members of the Presidium of the Supreme Soviet of the Union Republic.

The powers of the Presidium of the Supreme Soviet of a Union Republic are defined by the Constitution of the Union Republic.

Article 62.—The Supreme Soviet of a Union Republic elects a Chairman and Vice-Chairmen to conduct its sittings.

Article 63.—The Supreme Soviet of a Union Republic appoints the Government of the Union Republic, namely, the Council of People's Commissars of the Republic.

CHAPTER V. THE ORGANS OF GOVERNMENT OF THE UNION OF SOVIET SOCIALIST REPUBLICS

Article 64.—The highest executive and administrative organ of state authority of the Union of Soviet Socialist Republics is the Council of People's Commissars of the U.S.S.R.

Article 65.—The Council of People's Commissars of the U.S.S.R. is responsible to the Supreme Soviet of the U.S.S.R. and accountable to it ; and in the intervals between sessions of the Supreme Soviet it is responsible and accountable to the Presidium of the Supreme Soviet of the U.S.S.R.

Article 66.—The Council of People's Commissars of the U.S.S.R. issues decisions and orders on the basis and in pursuance of the laws in operation, and supervises their execution.

Article 67.—Decisions and Orders of the Council of People's Commissars of the U.S.S.R. are binding throughout the territory of the U.S.S.R.

Article 68.—The Council of People's Commissars of the U.S.S.R :

(*a*) Co-ordinates and directs the work of the All-Union and Union-Republican People's Commissariats of the U.S.S.R. and of other institutions, economic and cultural, under its administration ;

(*b*) Adopts measures to carry out the national economic plan and the state budget, and to strengthen the credit and monetary system ;

(*c*) Adopts measures for the maintenance of public order, for the protection of the interests of the state, and for the safeguarding of the rights of citizens ;

(*d*) Exercises general guidance in respect of relations with foreign states ;

(*e*) Fixes the annual contingent of citizens to be called up for military service and directs the general organization and development of the armed forces of the country ;

(*f*) Sets up, whenever necessary, special committees and Central Administrations under the Council of People's Commissars of the U.S.S.R. for matters concerning economic, cultural and defense organization and development.

Article 69.—The Council of People's Commissars of the U.S.S.R. has the right, in respect of those branches of administration and economy which come within the jurisdiction of the U.S.S.R., to suspend decisions and orders of the Councils of People's Commissars of the Union Republics and to annul orders and instructions of People's Commissors of the U.S.S.R.

Article 70.—The Council of People's Commissars of the U.S.S.R. is appointed by the Supreme Soviet of the U.S.S.R. and consists of:

The Chairman of the Council of People's Commissars of the U.S.S.R.;
The Vice-Chairmen of the Council of People's Commissars of the U.S.S.R.;
The Chairman of the State Planning Commission of the U.S.S.R.;
The People's Commissars of the U.S.S.R.;
The Chairman of the Committee on Arts;
The Chairman of the Committee on Higher Education;
The Chairman of the Board of the State Bank.

Article 71.—The Government of the U.S.S.R. or a People's Commissar of the U.S.S.R. to whom a question of a member of the Supreme Soviet of the U.S.S.R. is addressed must give a verbal or written reply in the respective Chamber within a period not exceeding three days.

Article 72.—The People's Commissars of the U.S.S.R. direct the branches of state administration which come within the jurisdiction of the U.S.S.R.

Article 73.—The People's Commissars of the U.S.S.R. issue, within the limits of the jurisdiction of the respective People's Commissariats, orders and instructions on the basis and in pursuance of the laws in operation, and also of decisions and orders of the Council of People's commissars of the U.S.S.R., and supervise their execution.

Article 74.—The People's Commissariats of the U.S.S.R. are either All-Union or Union Republican Commissariats.

Article 75.—The All-Union People's Commissariats direct the branches of state administration entrusted to them throughout the territory of the U.S.S.R. either directly or through bodies appointed by them.

Article 76.—The Union-Republican People's Commissariats, as a rule, direct the branches of state administration entrusted to them through the corresponding People's Commissariats of the Union Republics; they administer directly only a definite and limited number of enterprises according to a list confirmed by the Presidium of the Supreme Soviet of the U.S.S.R.

Article 77.—The following People's Commissariats are All-Union People's Commissariats:

Foreign Trade, Railways, Post and Telegraph and Telephones, Maritime Transport, River Transport, Coal Industry, Oil Industry, Power Stations, Electrical Industry, Iron and Steel Industry, Non-Ferrous Metallurgy, Chemical Industry, Aviation Industry, Shipbuilding Industry, Munitions, Armaments, Heavy Machine-building, Medium Machine-building,[1] General Machine-building,[2] Navy, Agricultural Procurement, Construction, Paper and Cellulose Industry.[3]

Article 78.—The following People's Commissariats are Union-Republican People's Commissariats:

Defence, Foreign Affairs, Food Industry, Fish Industry, Meat and Dairy Industry, Light Industry, Textile Industry, Timber Industry, Agriculture, State Grain and Livestock Farms, Finance, Trade, Internal Affairs,[4] State Security,[4] Justice, Public Health, Building Materials Industry, State Control.

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[1] Has since been converted into People's Commissariat of Tank Industry.
[2] Has since been converted into People's Commissariat of Mortar Armament.
[3] Commissariats of Machine-Tool Industry and Rubber Industry have since been formed.
[4] The Commissariats of Internal Affairs and State Security have since been merged into the People's Commissariat of Internal Affairs. (*New York Times*, July 21, 1941).

CHAPTER VI. THE ORGANS OF GOVERNMENT OF THE UNION REPUBLICS

Article 79.—The highest executive and administrative organ of state authority of a Union Republic is the Council of People's Commissars of the Union Republic.

Article 80.—The Council of People's Commissars of a Union Republic is responsible to the Superme Soviet of the Union Republic and accountable to it; and in the intervals between sessions of the Supreme Soviet of the Union Republic it is responsible and accountable to the Presidium of the Supreme Soviet of the respective Union Republic.

Article 81.—The Council of People's Commissars of a Union Republic issues decisions and orders on the basis and in pursuance of the laws in operation of the U.S.S.R. and of the Union Republic, and of the decisions and orders of the Council of People's Commissars of the U.S.S.R., and supervises their execution.

Article 82.—The Council of People's Commissars of a Union Republic has the right to suspend decisions and orders of Councils of People's Commissars of Autonomous Republics, and to annul decisions and orders of Executive Committees of Soviets of Working People's Deputies of Territories, Regions and Autonomous Regions.

Article 83.—The Council of People's Commissars of a Union Republic is appointed by the Supreme Soviet of the Union Republic and consists of:

The Chairman of the Council of People's Commissars of the Union Republic;

The Vice-Chairmen;

The Chairman of the State Planning Commission;

The People's Commissars of:

Food Industry, Fish Industry, Meat and Dairy Industry, Light Industry, Textile Industry, Timber Industry, Building Materials Industry, Agriculture, State Grain and Livestock Farms, Finance, Trade, Internal Affairs,[1] State Security,[1] Justice, Public Health, State Control, Education, Local Industry, Municipal Economy, Social Maintenance, Automobile Transport, The Chief of the Arts Administration, The Representatives of the All-Union People's Commissariats.[2]

Article 84.—The People's Commissars of a Union Republic direct the branches of state administration which come within the jurisdiction of the Union Republic.

Article 85.—The People's Commissars of a Union Republic issue, within the limits of the jurisdiction of their respective People's Commissariats, orders and instructions on the basis and in pursuance of the laws of the U.S.S.R. and of the Union Republic, of the decisions and orders of the Council of People's Commissars of the U.S.S.R. and that of the Union Republic, and of the orders and instructions of the Union Republican People's Commissariats of the U.S.S.R.

Article 86.—The People's Commissariats of a Union Republic are either Union-Republican or Republican Commissariats.

Article 87.—The Union-Republican People's Commissariats direct the branches of state administration entrusted to them, and are subordinate both to the Council of People's Commissars of the Union Republic and to the corresponding Union-Republican People's Commissariats of the U.S.S.R.

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1 The Commissariats of Internal Affairs and State Security have since been merged into the People's Commissariat of Internal Affairs. (*New York Times*, July 2[illegible], 1941.)

2 Under the amendments to the Constitution adopted by the 10th Session of the Supreme Soviet of the U.S.S.R., February 2, 1944, the Union Republics now have the right to appoint Commissars of Defense and Foreign Affairs to their Councils of people's Commissars.

Article 88.—The Republican People's Commissariats direct the branches of state administration entrusted to them and are directly subordinate to the Council of People's Commissars of the Union Republic.

CHAPTER VII. THE HIGHEST ORGANS OF STATE AUTHORITY OF THE AUTONOMOUS SOVIET SOCIALIST REPUBLICS

Article 89.—The highest organ of state authority of an Autonomous Republic is the Supreme Soviet of the respective Autonomous Soviet Socialit Republic.

Article 90.—The Supreme Soviet of an Autonomous Republic is elected by the citizens of the Republic for a term of four years on the basis of representation established by the Constitution of the Autonomous Republic.

Article 91.—The Supreme Soviet of an Autonomous Republic is the sole legislative organ of the Autonomous Soviet Socialist Republic.

Article 92.—Each Autonomous Republic has its own Constitution, which takes account of the specific features of the Autonomous Republic and is drawn up in full conformity with the Constitution of the Union Republic.

Article 93.—The Supreme Soviet of an Autonomous Republic elects the Presidium of the Supreme Soviet of the Autonomous Republic and appoints the Council of People's Commissars of the Autonomous Republic, in accordance with its Constitution.

CHAPTER VIII. THE LOCAL ORGANS OF STATE AUTHORITY

Article 94.—The organs of state authority in territories, regions, autonomous regions, areas, districts, cities and rural localities (stanitsas, villages, hamlets, kishlaks, auls) are the Soviets of Working People's Deputies.

Article 95.—The Soviets of Working People's Deputie of territories, regions, autonomous regions, areas, districts, cities and rural localities (stanitsas, villages, hamlets, kishlaks, auls) are elected by the working people of the respective territories, regions, autonomous regions, areas, districts, cities or rural localities for a term of two years.

Article 96.—The basis of representation for Soviets of Working Peoples Deputies is defined by the Constitutions of the Union Republics.

Article 97.—The Soviets of Working People's Deputies direct the work of the organs of administration subordinate to them, ensure the maintenance of public order, the observance of the laws and the protection of the rights of citizens, direct local economic and cultural organization and development and draw up the local budgets.

Article 98.—The Soviet of Working People's Deputies adopt decisions, and issue orders within the limits of the powers vested in them by the laws of the U.S.S.R. and of the Union Republic.

Article 99.—The executive and administrative organs of the Soviets of Working People's Deputies of territories, regions, autonomous regions, areas, districts, cities and rural localities are the Executive Committees elected by them, consisting of a Chairman, Vice-Chairman, a Secretary and members.

Article 100.—The executive and administrative organ of rural Soviet of Working People's Deputies in small localities, in accordance with the Constitutions of the Union Republics, is the Chairman, the Vice-Chairman and the Secretary elected by them.

Article 101.—The executive organs of the Soviets of Working People's Deputies are directly accountable both to the Soviets of Working People's Deputies which elected them and to the executive organ of the superior Soviet of Working People's Deputies.

CHAPTER IX. THE COURTS AND THE PROCURATOR'S OFFICE

Article 102.—In the U.S.S.R. justice is administered by the Supreme Court of the U.S.S.R., the Supreme Courts of the Union Republics, the Territorial and the Regional courts, the courts of the Autonomous Republics and the Autonomous Regions, the Area courts, the special courts of the U.S.S.R. established by decision of the Supreme Soviet of the U.S.S.R., and the People's Courts.

Article 103.—In all courts cases are tried with the participation of people's assessors, except in cases specially provided for by law.

Article 104.—The Supreme Court of the U.S.S.R. is the highest judicial organ. The Supreme Court of the U.S.S.R. is charged with the supervision of the judicial activities of all the judicial organs of the U.S.S.R. and of the Union Republics.

Article 105.—The Supreme Court of the U.S.S.R. and the special courts of the U.S.S.R. are elected by the Supreme Soviet of the U.S.S.R. for a term of five years.

Article 106.—The Supreme Courts of the Union Republics are elected by the Supreme Soviets of the Union Republics for a term of five years.

Article 107.—The Supreme Courts of the Autonomous Republics are elected by the Supreme Soviets of the Autonomous Republics for a term of five years.

Article 108.—The Territorial and the Regional courts, the courts of the Autonomous Regions and the Area courts are elected by the Territorial, Regional or Area Soviets of Working People's Deputies or by the Soviets of Working People's Deputies of the Autonomous Regions for a term of five years.

Article 109.—People's Courts are elected by the citizens of the district on the basis of universal, direct and equal suffrage by secret ballot for a term of three years.

Article 110.—Judicial proceedings are conducted in the language of the Union Republic, Autonomous Republic or Autonomous Region, persons not knowing this language being guaranteed every opportunity of fully acquainting themselves with the material of the case through an interpreter and likewise the right to use their own language in court.

Article 111.—In all courts of the U.S.S.R. cases are heard in public, unless otherwise provided for by law, and the accused is guaranteed the right to be defended by Counsel.

Article 112.—Judges are independent and subject only to the law.

Article 113.—Supreme supervisory power over the strict execution of the laws by all People's Commissariats and institutions subordinated to them, as well as by public servants and citizens of the U.S.S.R., is vested in the Procurator of the U.S.S.R.

Article 114.—The Procurator of the U.S.S.R. is appointed by the Supreme Soviet of the U.S.S.R. for a term of seven years.

Article 115.—Procurators of Republics, Territories and Regions, as well as Procurators of Autonomous Republics and Autonomous Regions, are appointed by the Procurator of the U.S.S.R. for a term of five years.

Article 116.—Area, district and city procurators are appointed for a term of five years by the Procurators of the Union Republics, subject to the approval of the Procurator of the U.S.S.R.

Article 117.— The organs of the Procurator's Office perform their functions independently of any local organs whatsoever, being subordinate solely to the Procurator of the U.S.S.R.

CHAPTER X. FUNDAMENTAL RIGHTS AND DUTIES OF CITIZENS

Article 118.—Citizens of the U.S.S.R. have the right to work, that is are guaranteed the right to employment and payment for their work in accordance. with its quantity and quality.

The right to work is ensured by the socialist organization of the national economy, the steady growth of the productive forces of Soviet society, the elimination of the possibility of economic crises, and the abolitin of unemployment.

Article 119.—Citizens of the U.S.S.R. have the right to rest and leisure.

The right to rest and leisure is ensured by the reduction of the working day to seven hours for the overwhelming majority of the workers, the institution of annual vacations with full pay for workers and employees and the provision of a wide network of sanatoria, rest homes and clubs for the accommodation of the working people.

Article 120.—Citizens of the U.S.S.R. have the right to maintenance in old age and also in case of sickness or loss of capacity to work.

This right is ensured by the extensive development of social insurance of workers and employees at state expense, free medical service for the working people and the provision of a wide network of health resorts for the use of the working people.

Article 121.—Citizens of the U.S.S.R. have the right to education.

This right is ensured by universal, compulsory elementary education; by education, including higher education, being free of charge; by the system of state stipends for the overwhelming majority of students in the universities and colleges; by instruction in schools being conducted in the native language, and by the organization in the factories, state farms, machine and tractor stations and collective farms of free vocational, technical and agronomic training for the working people.

Article 122.—Women in the U.S.S.R. are accorded equal rights with men in all spheres of economic, state, cultural, social and political life.

The possibility of exercising these rights is ensured to women by granting them an equal right with men to work, payment for work, rest and leisure, social insurance and education, and by state protection of the interests of mother and child, pre-maternity and maternity leave with full pay, and the provision of a wide network of maternity homes, nurseries and kindergartens.

Article 123.—Equality of rights of citizens of the U.S.S.R., irrespective of their nationality or race, in all spheres of economic, state, cultural, social and political life, is an indefeasible law.

Any direct or indirect restriction of the rights of, or, conversely, any establishment of direct or indirect privileges for, citizens on account of their race or nationality, as well as any advocacy of racial or national exclusiveness or hatred and contempt, is punishable by law.

Article 124.—In order to ensure to citizens freedom of conscience, the church in the U.S.S.R. is separated from the state, and the school from the church. Freedom of religious worship and freedom of anti-religious propaganda is recognized for all citizens.

Article 125.—In conformity with the interests of the working people, and in order to strengthen the socialist system, the citizens of the U.S.S.R. are guaranteed by law:

(*a*) freedom of speech;
(*b*) freedom of the press;
(*c*) freedom of assembly, including the holding of mass meetings;
(*d*) freedom of street processions and demonstrations.

These civil rights are ensured by placing at the disposal of the working people and their organizations printing presses, stocks of paper, public buildings, the streets, communications facilities and other material requisities for the exercise of these rights.

Article 126.—In conformity with the interests of the working people and in order to develop the organizational initiative and political activity of the masses of the people, citizens of the U.S.S.R. are ensured the right to unite in public organizations—trade unions, co-operative associations, youth organizations, sport and defense organizations, cultural, technical and scientific societies; and the most active and politically most conscious citizens in the ranks of the working class and other sections of the working people unite in the Communist Party of the Soviet Union (Bolsheviks), which is the vanguard of the working people in their struggle to strengthen and develop the socialist system and is the leading core of all organizations of the working people, both public and state.

Article 127.—Citizens of the U.S.S.R. are guaranteed inviolability of the person. No person may be placed under arrest except by decision of a court or with the sanction of a procurator.

Article 128.—The inviolability of the homes of citizens and privacy of correspondence are protected by law.

Article 129.—The U.S.S.R. affords the right of asylum to foreign citizens persecuted for defending the interests of the working people, or for their scientific activities, or for their struggle for national liberation.

Article 130.—It is the duty of every citizen of the U.S.S.R. to abide by the Constitution of the Union of Soviet Socialist Republics, to observe the laws, to maintain labor discipline, honestly to perform public duties, and to respect the rules of socialist intercourse.

Article 131.—It is the duty of every citizen of the U.S.S.R. to safeguard and strengthen public, socialist property as the sacred and inviolable foundation of the Soviet system, as the source of the wealth and might of the country, as the source of the prosperous and cultured life of all the working people.

Persons committing offenses against public, socialist property are enemies of the people.

Article 132.—Universal military service is law.

Military service in the Workers' and Peasants' Red Army is an honorable duty of the citizens of the U.S.S.R.

Article 133.—To defend the fatherland is the sacred duty of every citizen of the U.S.S.R. Treason to the country—violation of the oath of allegiance, desertion to the enemy, impairing the military power of the state, espionage—is punishable with all the severity of the law as the most heinous of crimes.

CHAPTER XI. THE ELECTORAL SYSTEM

Article 134.—Members of all Soviets of Working People's Deputies—of the Supreme Soviet of the U.S.S.R., the Supreme Soviet of the Union Republics, the Soviets of Working People's Deputies of the Territories and Regions the Supreme Soviets of the Autonomous Republics, and Soviets of Working People's Deputies of Autonomous Regions, area, district, city and rural (stanitsa, village, hamlet, kishlak, aul) Soviets of Working People's Deputies—are chosen by the electors on the basis of universal, direct and equal suffrage by secret ballot.

Article 135.—Elections of deputies are universal: all citizens of the U.S.S.R. who have reached the age of eighteen, irrespective of race or nationality, religion, educational and residential qualifications, social origin, property status or past activities, have the right to vote in the election of deputies and to be elected, with the exception of insane persons and persons who have been convicted by a court of law and whose sentences include deprivation of electoral rights.

Article 136.—Elections of deputies are equal: each citizen has one vote all citizens participate in elections on an equal footing.

Article 137.—Women have the right to elect and be elected on equal terms with men.

Article 138.—Citizens serving in the Red Army have the right to elect and be elected on equal terms with all other citizens.

Article 139.—Elections of deputies are direct: all Soviets of Working People's Deputies, from rural and city Soviets of Working People's Deputies to the Supreme Soviet of the U.S.S.R., inclusive, are elected by the citizens by direct vote.

Article 140.—Voting at elections of deputies is secret.

Article 141.—Candidates for election are nominated according to electoral areas.

The right to nominate candidates is secured to public organizations and societies of the working people: Communist Party organizations, trade unions, co-operatives, youth organisations and cultural societies.

Article 142.—It is the duty of every deputy to report to his electors on his work and on the work of the Soviet of Workng People's Deputies, and he is liable to be recalled at any time in the manner established by law upon decision of a majority of the electors.

CHAPTER XII. ARMS, FLAG, CAPITAL

Article 143.—The arms of the Union of Soviet Socialist Republics consist of a sickle and hammer against a globe depicted in the rays of the sun and surrounded by ears of grain with the inscription "Workers of All Countries, Unite!" in the languages of the Union Republics. At the top of the arms is a five-pointed star.

Article 144.—The state flag of the Union of Soviet Socialist Republics is of red cloth with the sickle and hammer depicted in gold in the upper corner near the staff and above them a five pointed red star bordered in gold. The ratio of the width to the length is 1 : 2.

Article 145.—The capital of the Union of Soviet Socialist Republics is the City of Moscow.

CHAPTER XIII. PROCEDURE FOR AMENDING THE CONSTITUTION

Article 146.—The Constitution of the U.S.S.R. may be amended only by decision of the Supreme Soviet of the U.S.S.R. adopted by a majority of not less than two-thirds of the votes cast in each of its Chambers.

THE SWISS CONFEDERATION

Introduction

Area: 15,976 *sq. miles*. *Population*: 4,265,703.

The present Constitution dates, in its present written form, from the year 1874, but it is the result of a long period of evolution. That evolution has always tended towards increasing centralisation.

Originally, Switzerland consisted of a number of sovereign States without either a Federal Constitution or a Central Authority. These States were, in fact, comprised of residents among the mountains of the different populations lying around the Alps. The inhabitants of these mountain valleys, therefore, did not speak a common language or possess a common history, though they shared a common manner of life. They soon came to share a common danger, however, and the need of combining their separate strengths against powerful enemies gave birth to a Confederation for the purposes of common action. Thus was created the Federal Diet, which met annually, and in which each separate State was equally represented. It is an indication of the local suspicion with which this Diet was regarded, and of the strong and distinct local habits that had been formed, that the decisions of this Federal Diet were not regarded as legally binding unless they were unanimous.

It seems inevitable that this tendency should have developed with the practice and experience of association, but in the 16th century a powerful new element of dissociation along religious lines was brought about by the Reformation. A number of States adhered to the old faith, whereas a number espoused the new. The consequence was that, though the Federal tie still remained, it was largely inoperative for some centuries. Then the danger, which the Confederation had earlier intended to avert, came to pass at the end of the 18th century. For the Swiss were still divided when, in the Revolutionary Wars, the French invaded the country; and the consequence was that the French had little difficulty in making themselves masters of a country that might have seemed impregnable.

The first act of the French was to sweep away all the local institutions in which the life of the people of the mountains had been contained. They ignored historical tradition; they ignored the sovereign States, known as Cantons; they ignored the ancient frontiers; they ignored sovereign local prejudice and sentiment; but they abolished the servitude of conquered Cantons or common bailiwicks, and they made a new division of the entire country into 18 prefectures, with new scientific frontiers to each. They provided a representative National Government endowed with power to demand obligatory military service and created a central government in neglect of the local autonomy to which the people had been accustomed. The Constitution in which this government was contained was known as the Constitution of the Helvetic Republic, which was given to the peoples of Switzerland on the 12th April, 1798. Needless to say, the Constitution was inoperative from the first day.

When Bonaparte found that the new Constitution was a failure, he attempted its revision. After much political controversy a new Constitution was substituted on the 20th May, 1802. It is in connection with

his Constitution that the popular veto appears for the first time in federal law. All citizens of and over the age of 20 years were required to ratify this Constitution. The result was that of those entitled to vote 72,453 voted for, 92,423 against, while 167,172 abstained from voting. It was then declared that those who had abstained from voting had thereby tacitly assented, and the Constitution was accordingly declared adopted.

The revised Constitution, passed in this way, met with little better success than the original. Therefore Bonaparte again intervened. Once again he acted out of his own hand, but this time he conferred separate Constitutions on each of the different Cantons. This Constitution was embodied in an Act known as the Act of Mediation, and was proclaimed on the 19th February, 1803. It lasted as long as the fortunes of Napoleon, and fell when these fortunes fell.

The only permanent result was that the habit of united action was renewed. Consequently, when the Act of Mediation was suspended on 7th August, 1815, the Diet was restored and twenty-two Cantons took an oath to observe a "Federal Agreement". Under this agreement the inviolability of the Constitutions of the contracting Cantons was guaranteed, and each Canton was left free to devise its own Constitution. The Cantons, however, united for purposes of common safety, for the preservation of liberty and independence against foreign aggression, and for the maintenance of internal peace and order.

This Federal Agreement lasted till the year 1848. During this time the Federal Diet was not composed of representatives of the Swiss Nation, but of representatives of the Cantons, who acted as ambassadors of sovereign States. This is a distinction important to remember, for its effect may be traced in the formation of the Executive in the Constitutions of later years. For the Executive in this Constitution, while elected by the Assembly, to which it is responsible, is representative, not of them, but of certain Cantons and cities that in former days established prerogatives that are jealously guarded.

These prerogatives were at this time being guarded by the Federalists, who were strongly represented in the more conservative Cantons. A Radical Party had, however, arisen that desired to dissolve the sovereignty of the contracting States, to abolish the Diet, and to establish a unified democratic State. These two influences created a controversy that lasted during three decades—a controversy that was marked by several attempts on the part of the more powerful conservative Cantons to break away from the Confederation. The issue so created culminated in the war of the Sonderbund in 1846, when 7 Catholic Cantons seceded. Civil War followed—if a short and bloodless campaign may be so described—and the Cantons of the Sonderbund were defeated and compelled to rejoin the Confederation. This meant the triumph of National unity; and consequently a unified Constitution could no longer be delayed. Therefore, in 1848, the Diet set to work on the creation of this Constitution, which resulted in a compromise.

Being a compromise, the Constitution of 1848 reflects the growth of the new ideas with an attempt to retain the ancient practices. A legislature was created, consisting of two Chambers known, respectively, as the National Council and the Council of States. After the manner of the United States of America, the National Council represented the people directly, whereas the Council of States represented the Cantons.

All citizens of the age of 20 years and upwards possessed a vote for the representative to the National Council. The two Councils in joint session elected a National Executive of 7 members, known as the Federal Council. But this Executive was chosen, not from the two bodies of the Legislature; but from all citizens eligible to the National Council. Certain powerful Cantons maintained a prerogative right to a member of this Executive; but it was ordained that not more than one member of the Federal Council should be chosen from the same Canton. The members of this Executive were appointed for the same length of time as the National Council, three years.

In view of the circumstance that the Swiss Executive is unique in the constitutional practice of the world, it is important to note the causes that brought it into existence and maintained it in being. For the Constitution was, in effect, still in great measure a treaty of alliance between twenty-two sovereign States, who agreed to take certain Executive action in common. Moreover, the Federal Council (which acts as an Executive) is entrusted with certain functions for which it is not responsible directly to the Assembly, and concerning which it need not consult the Assembly unless it so chooses. It is, for example, entrusted with the supervision of the Constitutions of the sovereign Cantons. In this matter, therefore, it acts directly as the trustee of the twenty-two Constituent Sovereign Cantons, and need not report on its actions to the Federal Chamber unless it elects to do so.

In this connection it is interesting to note that it is provided in the Constitution that the Federal Council should be "chosen from all Swiss citizens eligible to the National Council". But in practice the more powerful of the Cantons exercise a prescriptive right to the appointment of members of the Council. Thus an Executive came into existence which, while answerable for most ofits acts to the legislature, was in effect created in no small part from the prescriptive rights of the sovereign Cantons. Lest, however, it might be said that a member of the Executive, so created, was acting for his Canton, his religion or his locality, rather than for the whole people, it was decided in practice that the entire Executive should always act in a collegiate capacity. And so by a series of balances, legislative and executive, a compromise was effected between the Radicals, who desired to liquidate the ancient sovereignty of the Cantons and to create a single authority derived from the whole people, and those who wished to retain the older Federal practice with a Diet of somewhat greater powers than had previously been the case.

The powers of the Federal Government, however, were still extremely limited. They were, in fact, conferred on it as a result of a bargain struck between twenty-two Cantons, all of which still retained their sovereignty. These powers existed only in diplomatic and military affairs, together with certain economic matters, such as posts, customs, and weights and measures, in respect of which concerted action could not be neglected if the people were to retain any sort of unity.

The Constitution of 1848 continued without change for twenty-six years. In the meantime the tendency towards greater centralisation had increased. From the first the Federalists had consisted of those who desired to retain certain social and municipal privileges, whereas the Radicals had consisted mainly of those who desired the abolition of such privileges. During these years the desire for such abolition had increased; and the movement had developed, on the one hand to declare certain inalienable individual rights and liberties for all the people alike, and on the other hand

to place these under the protection of a unified and centralised law. For it was particularly desired to abolish the separate judicial systems of the Cantons, to unify and codify the law and to create a permanent Federal Tribunal. It was also desired to nationalise the railways under Federal ownership, and to cause legislation to be referred to the entire Swiss people, not as inhabitants of certain Cantons, but as a single and unified Court of Appeal.

To embody these objects, therefore, the two Chambers of the Legislature in 1874 caused the Constitution of 1848 to be revised. A new draft Constitution was, therefore, placed before them and passed by them for submission to the referendum of the people. Under this Constitution a permanent Federal Tribunal was set up and the greater part of the law unified. The general administration of the Army was entrusted to the Confederation. The rights of the individual, and, in particular, liberty of conscience, were guaranteed by the Confederation, and placed under the protection of the Federal Council and the Federal Tribunal—that is to say, the Executive and the Judicature, for being in the Fundamental Law of the Constitution these rights had thereby become removed from the power of the Legislature. Power to legislate on the working and organisation of railways and the referendum on legislation were introduced in the Constitution.

The change was great. Nevertheless the Constitution of 1874 (which is the Constitution printed here) declares the Cantons to be sovereign where they have not specifically delegated their powers to the Confederation. Thus it appears from the Constitution that although the sovereignty of the Cantons had steadily diminished in favour of the Confederation, it is from the Cantons that the Confederation draws its authority and derives its constitutional usages. The old machinery was still maintained. As in the United States so in the Constitution of 1874, one House of the Legislature is created directly from the suffrages of the people, whereas the other House is created by the nomination of the Cantons.

Similarly, the Executive is formed in recognition of the same principle. The actual provisions of the Constitution read: "Members of the Federal Council are appointed for three (changed to *four* in 1931) years by the two Councils in joint sessions and are chosen from among all Swiss citizens eligible to the National Council. Not more than one person from each Canton may be chosen for the Federal Council." (Art. 96.) Such is the provision of the Constitution, which takes no note of the details of actual practice. In this actual practice, however, certain Cantons maintain their title to special representation in the Executive.

Such being the case, it naturally follows that the President of the Council has no special powers. He is appointed for periods of 12 months, and is himself in charge of one of the 7 Departments of State. As President he acts simply as the annual Chairman of the College of Ministers.

The Constitution of 1874 allowed for amendment by the referendum, a majority of the votes and a majority of the Cantons being necessary for any such amendment to pass. In 1891 a provision was added enabling changes to be demanded on the initiative of the people. In this way certain additions have been made to the Constitution since 1874. These are all noted in their due places.

FEDERAL CONSTITUTION

OF

THE SWISS CONFEDERATION

Of the 29th MAY, 1874

As Revised up to March 15, 1931.

In the Name of Almighty God:

THE SWISS CONFEDERATION, resolved to consolidate the alliance of the confederated members and to maintain and increase the unity, strength and honour of the Swiss nation, has adopted the following Federal Constitution:—

CHAPTER I.

GENERAL PROVISIONS.

Article 1.—The peoples of the twenty-two sovereign Cantons of Switzerland united in the present alliance, namely: *Zurich, Bern, Lucerne, Uri, Schwyz, Unterwalden* (Upper and Lower), *Glaris, Zug, Freiburg, Solothurn Basel* (City and Country), *Schaffhausen, Appenzell* (the two Rhodes), *St. Gall, Grisons, Aargau, Thurgaw, Ticino, Vaud, Valais, Neuchatel,* and *Geneva* form together the Swiss Confederation.

Article 2.—The object of the Confederation is to ensure the independence of the country against the foreigner, to maintain peace and order within its borders, to protect the liberties and rights of its members, and to promote their common prosperity.

Article 3.—The Cantons are sovereign so far as their sovereignty is not limited by the Federal Constitution, and as such they exercise all rights which are not delegated to the Federal Power.

Article 4.—All Swiss people are equal before the law. In Switzerland there are no subjects nor any privileges of rank, birth, person or family.

Article 5.—The Confederation guarantees to the Cantons their territory their sovereignty within the limits fixed by Article 3, their Constitutions, the liberty and rights of their people, the constitutional rights of the citizens, and the rights and powers conferred by the people on the authorities.

Article 6.—The Cantons are required to demand from the Confederation its guarantee of their Constitutions.

This guarantee must be accorded, provided:

(*a*) that the Constitutions contain nothing contrary to the provisions of the Federal Constitution;

(*b*) that they ensure the exercise of political rights according to republican forms—representative or democratic;

(*c*) that they have been accepted by the people and can be revised when an absolute majority of citizens so demand.

Article 7.—All separate alliances and treaties of a political character between Cantons are forbidden.

The Cantons, however, have the right to make agreements with one another on matters of legislation, administration and justice ; but such agreements must be communicated to the Federal authority, which may prohibit their execution if they contain anything prejudicial to the Confederation or the rights of other Cantons. In the absence of such prohibition, the Cantons making the agreement are authorized to require the co-operation of the Federal authorities in their execution.

Article 8.—The Confederation has the sole right to declare war and conclude peace, and to make alliances and treaties, particularly customs and commercial treaties, with foreign States.

Article 9.—Exceptionally, the Cantons retain the right to conclude treaties with foreign States in respect of matters of public economy and police and border relations ; but such treaties must not contain anything prejudicial to the Confederation or the rights of other Cantons.

Article 10.—Official intercourse between the Cantons and foreign governments or their representatives shall take place through the Federal Council.

But in regard to matters mentioned in the preceding article the Cantons may correspond directly with the subordinate authorities and officers of a foreign State.

Article 11.—Military " capitulations "* are prohibited.

Article 12†.—The members of the federal authorities, federal, civil and military officials, representatives and commissioners as well as the members of the Cantonal Governments and legislatures may accept from a foreign government neither pensions or salaries, nor titles, gifts or decorations. The violation of this prohibition entails the loss of the mandate or of the office.

He who is in possession of such a pension, title or decoration, cannot, by election or appointment, become a member of the federal authority nor a civil or military official of the Confederation, nor a federal representative or commissioner, nor a member of the government or legislature of a Canton, unless he shall have expressly renounced his right to the pension or the title or returned the decoration, before exercising his mandate or entering upon his office.

The wearing of foreign decorations or the use of titles conferred by foreign government are forbidden in the Swiss army.

All officers, non-commissioned officers or soldiers are forbidden from accepting any such distinction.

Article 13.—The Confederation may not maintain a standing army.

No Canton or half-Canton may maintain more than 300 men as a permanent military force (excluding police) without permission of the Federal authority.

Article 14.—The Cantons must abstain, in the event of differences arising between them, from any attack or resort to arms. They must submit to the settlement of such differences in the manner prescribed by the Confederation.

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* Agreements for the supply of mercenary troops to foreign countries.

† This Article was substituted for the original by referendum on February 8, 1931.

Article 15.—In case of sudden danger from without, the government of the Canton threatened must invoke the assistance of the confederated States and immediately notify the Federal Authority the measures which may subsequently be taken by the latter not being prejudiced thereby. The Cantons so called upon are bound to give their assistance. The cost shall be borne by the Confederation.

Article 16.—In case of internal disorder or of danger being threatened from another Canton, the Government of the Canton threatened must immediately notify the Federal Council, in order that that body may take the necessary measures within the limits of its competence (Article 102, Nos. 3, 10 and 11) or convene the Federal Assembly. In case of urgency the Cantonal Government, while immediately notifying the Federal Council, may call for the assistance of the other Confederated States, which the latter are bound to render.

When the Cantonal Government is not in a position to summon assistance, the competent Federal Authority may intervene on its own initiative, and is bound to do so if the disorders endanger the safety of Switzerland.

When the Federal Authorities intervene, they must ensure the observance of the provisions of Article 5.

The costs shall be borne by the Canton by which assistance was invoked or intervention necessitated, unless the Federal Assembly on consideration of the special circumstances should otherwise decide.

Article 17.—Every Canton must give free passage to troops in the cases mentioned in Articles 15 and 16.

The troops are placed immediately under Federal command.

Article 18.—Every Swiss male is liable for military service.

Soldiers who lose their lives or suffer permanent injury to their health in the Federal service are entitled to assistance from the Confederation for themselves or their families, if in need.

Every soldier shall be supplied, free of charge, with his first outfit of arms, equipment and clothing. Arms remain in the possession of the soldier upon conditions to be determined by Federal legislation.

The Confederation will prescribe uniform regulations as to the tax on exemption from military service.

Article 19.—The Federal army consists of—

(*a*) the Cantonal corps ;

(*b*) all Swiss who, not being members of these corps, are nevertheless liable for military service.

The control of the Federal army and of war material provided in accordance with the law is vested in the Confederation.

In case of danger, the Confederation has also the right of exclusive and immediate control over all men not incorporated in the Federal army and of all other military resources of the Cantons.

The Cantons exercise control over the military forces of their territory save in so far as this right is limited by the Constitution or by Federal legislation.

Article 20.—Laws as to the organization of the army are enacted by the Confederation. The execution of military laws within the Cantons is undertaken by the Cantonal authorities within the limits prescribed by Federal legislation and under the supervision of the Confederation.

Military instruction and the arming of troops are under the exclusive control of the Confederation.

The supply and renewal of clothing and equipment are within the competence of the Cantons, but the cost thereof shall be reimbursed to the Cantons in manner to be prescribed by Federal law.

Article 21.—So far as military considerations permit, each corps shall consist of troops from the same Canton.

The composition of such corps, the obligation of maintaining their strength, and the appointment and promotion of their officers rest with the Cantons, subject to general regulations communicated to them by the Confederation.

Article 22.—In return for reasonable compensation, the Confederation has the right to make use of or to acquire drill grounds and buildings used for military purposes, together with all accessories, in the Cantons.

The conditions governing compensation shall be regulated by Federal legislation.

Article 23.—The Confederation may construct at its own expense, or encourage by subsidies the construction of, public works of utility to Switzerland as a whole, or to any considerable part of the country.

For this purpose it may order expropriations on payment of just compensation. Federal legislation will make the necessary provision in this respect.

The Federal Assembly may prohibit public works which endanger the military interests of the Confederation.

Article 23(a).*—The Confederation maintains the stores of grain necessary to secure the revictualling of the country. It may oblige millers to store grain and to purchase extra supplies of grain in order to facilitate the renewal of the stores.

The Confederation encourages the growing of grain in the country. It promotes the selection and purchase of indigenous choice seeds and grants subsidies to the producer growing grain for his own needs, taking into particular consideration the mountainous regions. It purchases indigenous grain of good quality fit for milling at a price which allows its growing. The millers may be obliged to purchase this grain at its market value.

The Confederation assures the maintenance of national mills ; it also safeguards the interests of consumers of flour and of bread. Within the limits of its rights, it supervises the trade and prices of grain, bread flour and of bread. The Confederation takes the necessary measures to regulate the importation of bread flour ; it may also reserve for itself the exclusive right to import this product. In case of need, the Confederation grants mills facilities, in order to reduce their transportation costs within the country. It takes the necessary measures in order to equalize the prices of flour for the mountainous regions.

A statistical duty shall be levied on all goods transported across the customs frontier. The yield of this duty shall contribute to the expenditure entailed by the revictualling of the country in grain.

*This Article was added by referendum on March 3, 1929.

Article 24*.—The Confederation has the right of supreme control of the policing of embankments and forests.

It will assist in the control and embanking of rivers and the reafforestation of the districts in which they rise, and will decree the measures necessary for the maintenance of such works and the preservation of the existing forests.

Article 24 (a).**—The utilisation of water-power is under the supreme control of the Confederation.

Federal legislation will make the necessary provision for safeguarding the public interest and ensuring the rational utilisation of water-power, taking into account, as far as possible, the interests of internal navigation.

Subject to such Federal legislation, the Cantons regulate the utilisation of water-power.

Concessions shall, notwithstanding, be granted by the Confederation in any case where the utilisation of a watercourse under the jurisdiction of more than one Canton is sought for the production of hydraulic power and the Cantons have failed to come to any agreement as to the granting of a concession. The Confederation shall likewise have power to grant concessions, after hearing the views of the Cantons concerned, in respect of watercourses forming the frontier of the country.

Fees and royalties payable in respect of the utilisation of water-power are the property of the Cantons or of those entitled to them under Cantonal law.

Fees and royalties payable in respect of concessions made by the Confederation shall be determined by the Confederation, after consideration of the views of the Cantons concerned and having due regard to their legislation Fees and royalties payable in respect of other concessions shall be determined by the Cantons, subject to the limitations imposed by Federal legislation.

The diversion abroad of energy produced from water-power may not take place without authority from the Confederation.

Upon the coming into force of this Article, all new water-power concessions shall be subject to future Federal legislation.

The Confederation has the right to legislate upon the transmission and distribution of electrical energy.

Article 24 (b) †.—Legislation affecting navigation is within the province of the Confederation.

Article 25.—The Confederation may make laws for the regulating of fishing and hunting, particularly with a view to the preservation of forest animals in the mountains and the protection of birds useful to agriculture and sylviculture.

Article 25(a) ††.—The bleeding of animals for slaughter which have not been previously stunned is expressly forbidden. This provison applies to all methods of slaughter and to all kinds of animals.

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* The first paragraph of this Article is a modification of the original Article 24, and was adopted by referendum on July 11, 1897.

** This Article was added by referendum on October 25, 1908.

† This Article was added by referendum on May 4, 1919.

†† This Article was added by referendum on August 20, 1893.

Article 26.—Legislation on the construction and working of railways is within the province of the Confederation.

Article 27.—The Confederation may establish, in addition to the existing Federal Polytechnic, a Federal University and other institutions for higher education, or may subsidise establishments of this kind.

The Cantons provide for primary education, which must be adequate and exclusively under the control of the civil authorities. Primary education is compulsory and, in the public school, free.

Public schools must be open for the attendance of members of all religious faiths without prejudice to them in any way in respect of their conscience or belief.

The Confederation will take any necessary measures against Cantons which fail to fulfil these obligations.

Article 27 (a)*.—Subventions shall be granted to the Cantons to aid them in carrying out their obligations in respect of primary education. Effect will be given to this provision by legislation. The organisation, direction and supervision of primary schools remains within the competence of the Cantons, subject to the provisions of Article 27.

Article 28.—Customs duties are within the province of the Confederation which may impose import and export taxes.

Article 29.—The collection of Federal customs must be regulated in accordance with the following principles :—

1. Import taxes.
   (*a*) Materials necessary to the industry and agriculture of the country must be taxed as lightly as possible.
   (*b*) The same principle applies to commodities necessary for the maintenance of life.
   (*c*) Articles of luxury must be subject to the heaviest taxes.

   Except where circumstances render it impossible, these principles must be observed in the conclusion of commercial treaties with foreign countries.

2. Export taxes must be as moderate as possible.

3. Legislation on customs will contain suitable provisions for the continuance of commercial and market intercourse across the frontier.

The foregoing provisions do not preclude the Confederation from taking exceptional measures temporarily to meet abnormal circumstances.

Article 30**.—The yield of customs duties belongs to the Confederation.

The compensation heretofore paid to the cantons for the repurchase of their toll dues, of their road and bridge taxes, of their customs duties and similar revenue, is abolished.

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*This Article was added by referendum on November 23, 1902.

** This Article was substituted for the original by referendum on May 15, 1927.

The cantons of Uri, of the Grisons, of Tessin and of the Valais shall receive from January 1st, 1925, exceptionally and by reason of their international Alpine roads, an annual compensation whose amount is fixed as follows :—

Uri	160,000 francs
Grisons	400,000 francs
Tessin	400,000 francs
Valais	100,000 francs

Article 31.*—The freedom of trade and industry is guaranteed throughout the Confederation.

Are reserved :

(*a*) The salt and gunpowder monopolies, the federal duties, the import duties of wines and other alcoholic beverages, as well as the consumption duties expressly recognized by the Confederation under article 32 ;

(*b*) The manufacture, import, rectification, sale and taxation of distilled liquors, in conformity with articles 32 (*a*) and 32 (*c*) ;

(*c*) Everything that concerns taverns and the trade in alcoholic beverages, in conformity with article 32 (*d*) ;

(*d*) The sanitary police measures concerning contagious diseases, very common diseases and diseases particularly dangerous for the human and animal races ;

(*e*) Provisions concerning the exercise of commercial and industrial professions, the relevant taxes and the regulation of highways. These provisions shall contain nothing contrary to the principle of the freedom of trade and industry.

Article 32.—The Cantons are authorized to collect the import duties on wines and other spirituous liquors referred to in Article 31, Clause (*a*), subject in all cases to the following restrictions :—

(*a*) The collection of these duties must not impede the free transit of goods ; commerce must be hindered as little as possible and may not be subjected to any other tax.

(*b*) If commodities imported for consumption are re-exported from the Canton, the duty paid on import must be refunded without further charge.

(*c*) Commodities produced in Switzerland must be taxed at a lower rate than those of foreign origin.

(*d*) The import duties on wines and other spirituous liquors produced in Switzerland may not be increased in Cantons where such duties now exist, nor may such duties be imposed by Cantons which do not collect them at the present time.

(*e*) Cantonal laws and decrees in regard to the collection of import duties must, before being put into operation, be submitted for approval to the Federal authorities, for them to ensure, if necessary, that the foregoing provisions are observed.

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* This Article was amended as to the manufacture and sale of spirituous liquors, Clause (*b*), by referendum on October 25, 1885. It was further amended, as to measures against disease, Clause (*d*), by referendum on May 4, 1913. It was again amended to its present form by referendum on April 6, 1930.

All import duties at present collected by the Cantons, together with similar duties collected by Communes, must be abolished, without compensation, by the end of the year 1890.

Article 32 (a)*.—The Confederation shall have the right to enact legislative provisions on the manufacture, import, rectification, sale and taxation of distilled beverages.

These provisions shall tend to reduce the consumption and consequently the importation and production of spirits. They shall encourage the production of table fruit and the use of indigenous distillable substances for purposes of food and fodder. The Confederation shall reduce the number of stills by private purchase.

Concessions for the industrial production of distilled beverages are granted to co-operative societies and to other private enterprises. The concessions granted shall authorize the use of the waste and residues of fruit production, of viticulture, of the production of sugar beet and the excess of fruit and potato harvests, in so far as these raw materials cannot rationally be employed elsewhere than in distilleries.

The non-industrial production of spirits drawn from fruit waste, fruit cider, wine, skins of grapes and analogous substances, is authorized in the already existing domestic distilleries, in the itinerant distilleries in so far as these substances result exclusively from the indigenous harvest of the producer or have been gathered in a wild state in the country. The spirits thus obtained shall be tax free in so far as they are used in the household or are necessary for the farm of the producer. Domestic distilleries still existing at the end of fifteen years after the adoption of the present article shall, in order to continue their production, seek for a concession which shall be granted them without expense under the conditions to be fixed by law.

The special products obtained by the distillation of stone fruit, wine, skins of grapes, wine drugs, gentian roots and other similar substances, are subject to a tax. However the producer shall be allowed to obtain a fair price for these raw materials when produced in the country.

Except for the quantities necessary to the producer, which are tax free, and for special products, the spirits manufactured in the country are delivered to the Confederation, which shall purchase them at a fair price.

Exported products or products transported in transit or methylated are tax free.

The yield of taxes on the sales and the retailing of spirits, within the limits of the cantons, belongs to the cantons. The licenses for intercantonal and international trade are delivered by the Confederation; the receipts therefrom are distributed among the cantons proportionally to their population of ordinary residence.

Half the net receipts which the Confederation draws from the taxation of distilled beverages are distributed among the cantons proportionally to their population of ordinary residence; each canton is obliged to employ at least 10 per cent. of its share to combat alcoholism in its causes and in its effects. The other half of the receipts belongs to the Confederation; it shall be earmarked for old age and survival insurance and, until the introduction of this insurance, paid in to the funds created therefor.

* This Article was added by referendum on October 25, 1885. It was amended by referendum on April 6, 1930.

Article 32 (b)*.—The manufacture, importation, transport and sale, or keeping for sale, of the liquor called absinth are prohibited throughout the Confederation. This prohibition extends to all beverages, by whatever name called, which are imitations of absinth. The through transport of absinth and the use of absinth in pharmacy are excepted from this prohibition.

The foregoing prohibition will come into operation two years after its adoption. Federal legislation will make the necessary provision for giving effect to this prohibition.

The Confederation may by law impose the same prohibition on all other beverages containing absinth which may be deemed dangerous to the public welfare.

Article 32 (c)†.—The manufacture, importation, transport, sale and holding of the liquor called absinth shall be forbidden throughout the Confederation. This prohibition extends to all liquors which, under any name, should constitute an imitation of absinth. The right to transport in transit and the use of absinth for pharmaceutical purposes remain reserved.

The above prohibition shall come into force two years after its adoption. The provisions made necessary by this prohibition shall be enacted by federal legislation.

The Confederation has the right to decree the same prohibition by legislative means for all other beverages containing absinth which should constitute a public danger.

Article 33.—The Cantons may require evidence of capacity from persons desiring to practise the liberal professions.

Federal legislation will make provisions that such persons may be able to obtain certificates of qualification valid throughout the Confederation.

Article 34.—The Confederation may make uniform regulations concerning child labour in factories, the hours of work of adults in factories and the protection of workers in unhealthy or dangerous trades.

The operations of emigration agencies and insurance undertakings not established by the State are subject to Federal supervision and legislation.

Article 34 (a)‡.—The Confederation will introduce legislation to provide for sickness and accident insurance, regard being had to existing institutions.

Such insurance may be made compulsory on all or on specified categories of citizens.

Article 34 (b)‡.—The Confederation may make uniform regulations concerning arts and industries.

Article 34 (c)§.—The Confederation shall introduce by legislative means old age and survival insurance institutions; it may later introduce invalidity insurance institutions.

It may declare these institutions compulsory on all or on certain classes of citizens.

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* This Article was added by referendum on July 5, 1908.
† This Article was added by referendum on April 6, 1930.
‡ This Article was added by referendum on October 26, 1890.
§ This Article was added by referendum on December 6, 1925.

These insurance institutions shall be realized with the co-operation of the cantons; public and private insurance funds may be called upon to co-operate.

The first two insurance branches shall be simultaneously introduced.

The financial contributions of the Confederation and of the cantons shall not in all exceed half the sums necessary for the insurance.

From January 1st, 1926, the Confederation shall earmark for its old age and survival insurance institutions the total product of the tobacco tax.

The share of the Confederation in the net receipts of the tax on spirits shall be earmarked for the old age and survival insurance institutions.

Article 35*.—The opening and running of gaming houses is forbidden.

The cantonal governments may, under certain conditions fixed by public interest, authorize society games played in kursaals until the spring of 1925, in so far as the competent authority deems such games necessary for the maintenance and development of the tourist traffic and in so far as their organization is entrusted to an enterprise which for this purpose maintains a kursaal. The cantons can also prohibit such games.

An ordinance of the Federal Council shall determine the conditions imposed by public interest. The stake shall not exceed two francs.

The cantonal authorizations shall be subject to the approval of the Federal Council.

The fourth of the gross receipts of the games shall be paid over to the Confederation which shall earmark it, without prejudice to its own payments, for the victims of natural devastations, as well as for works of public utility.

The Confederation shall also take the necessary measures concerning lotteries.

Article 36.—Throughout Switzerland posts and telegraphs are within the province of the Confederation.

Revenues from posts and telegraphs belong to the Federal Treasury.

Postal and telegraphic charges must be fixed on the same principle and as equitably as possible in every part of Switzerland.

The inviolable secrecy of letters and telegrams is guaranteed.

Article 37.—The Confederation exercises supreme control over all roads and bridges in the maintenance of which it is concerned.

The sums due to the Cantons specified in Article 30 on account of their international Alpine highways may be withheld by the Federal authorities if these highways are not properly maintained.

Article 37(a)†.—The Confederation may make regulations concerning automobiles and cycles.

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* This Article was amended by referendum on December 2, 1921.

† This Article was added by referendum on May 22,1922.

The Cantons retain the right to restrict or prohibit automobile and cycle traffic, but the Confederation may nevertheless declare open or partially open to traffic highways necessary for through traffic. The use of highways upon the business of the Confederation may not be restricted.

Article 37(b). *—Legislation concerning aerial navigation is within the province of the Confederation.

Article 38.—The Confederation exercises exclusive rights in regard to coinage.

It has the sole right of coining money.

It determines the monetary system, and may, if necessary, regulate the rate of exchange of foreign moneys.

Article 39†.—The right of issuing bank-notes and other fiduciary money is vested exclusively in the Confederation.

The Confederation may exercise its monopoly of note issue through a State Bank placed under a special administration, or may concede its monopoly, subject to the right of redemption, to a central joint stock bank, which shall be administered with the assistance and under the control of the Confederation.

The principal function of the Bank invested with the monopoly shall be to regulate the money market in Switzerland and to facilitate payments.

At least two-thirds of the net profits of the Bank, after payment of interest or reasonable dividend on the endowment or share capital, and after allocations to the reserve funds, must be distributed among the Cantons.

The Bank and its branches shall be exempt from all Cantonal taxation.

Forced circulation of bank-notes or any other form of fiduciary money may be decreed by the Confederation only in case of necessity in time of war.

Federal legislation shall make provision as to the seat of the Bank, its basis and organisation, and generally as to the carrying into effect of this Article.

Article 40.—The system of weights and measures is determined by the Confederation.

The laws relating thereto are administered by the Cantons under Federal supervision.

Article 41.—The Confederation has the monopoly of the manufacture and sale of gunpowder throughout Switzerland.

Blasting materials not usable for firearms are not included in this monopoly.

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* This Article was added by referendum on May 22, 1921.

† This Article was substituted for the original by referendum on October 18, 1891

Article 41(a)*.—The Confederation may impose stamp duties upon title deeds, receipts for insurance premiums, bills of exchange and similar instruments, documents in use in transport and other documents concerning commercial operations; but such duties may not be imposed on documents concerning landed property and mortgages.

The Cantons may not subject to any stamp duty or registration duty documents which are liable to Federal stamp duty or which have been exempted therefrom.

One-fifth of the net product of the stamp duties shall be payable to the Cantons.

The carrying into effect of this Article will be provided for by legislation.

Article (b)†.—The Confederation is authorized to levy taxes on law and manufactured tobacco.

Article 42*.—The expenses of the Confederation are met by—

(*a*) the revenue from Federal property;

(*b*) the revenue from Federal customs collected on the Swiss frontiers;

(*c*) the revenues from posts and telegraphs;

(*d*) the revenue from the gunpowder monopoly;

(*e*) half the gross product of the military exemption taxes collected by the Cantons;

(*f*) contributions by the Cantons determined by Federal legislation having special regard to their wealth and taxable resources

(*g*) the revenue from stamp duties.

Article 43.—Every citizen of a Canton is a Swiss citizen.

As such he is entitled, after having duly proved his qualification as a voter, to take part at his place of domicile in all Federal elections and pollings.

No person may exercise political rights in more than one Canton.

A Swiss citizen by settlement enjoys at his place of domicile all the rights of a citizen of the Canton together with the rights of a citizen of the Commune. Participation in the property of communes of citizens and corporations, and the right to vote in matters exclusively connected therewith, are excluded from these rights, unless otherwise provided by Cantonal legislation.

In Cantonal and communal matters a Swiss citizen by settlement acquires the rights of an elector after settlement for a period of three months.

Cantonal laws concerning settlement and electoral rights in communal affairs possessed by citizens by settlement shall be submitted to the Federal Council for approval.

Article 44‡.—No Swiss citizen shall be expelled from the territory of the Confederation or from his canton of origin.

The rules applicable to the acquisition and loss of the Swiss nationality shall be fixed by federal legislation.

*Article 41(a), together with Clause (*g*) of Article 42, was added by referendum on May 13, 1917.
†This article was added by referendum on December 6, 1925.
‡This article was amended by referendum on May 20, 1928.

Federal legislation may decide that the child born of foreign parents is a Swiss citizen on his birth, when the mother was of Swiss origin and when the parents had their ordinary residence in Switzerland at the time of the birth of the child. The child acquires the right of citizenship in the commune of origin of his mother.

The principles regulating re-integration in the right of citizenship shall be laid down by federal legislation.

The persons having acquired Swiss citizenship by reason of the present provisions shall enjoy the same rights as the other citizens; however, they shall not participate in the purely communal (bourgeoisiaux) and corporative estates, unless the cantonal legislation otherwise decides. The Confederation accepts the burden of at least half the poor relief that persons having become Swiss by their birth under the above conditions may throw upon the Cantons and the Communes until the end of their eighteenth year. The same is the case of citizens reintegrated in the right of citizenship during the ten years following their re-integration.

The federal legislation shall determine the cases in which the Confederation shall participate in the expenses of the Cantons and the Communes for the relief of naturalized stateless individuals.

Article 45.—Every Swiss citizen has the right to settle in any part of Switzerland, subject to the production of a certificate of origin or similar document. The right of settlement may, by way of exception, be *refused* to or *withdrawn* from persons who have been deprived of their civic rights as a result of a penal conviction.

The right of settlement may also be withdrawn from persons who have been repeatedly sentenced for grave misdemeanours, and from persons who become a permanent burden upon public charity, and whose Commune or Canton of origin refuses to provide adequate assistance for them after having been officially requested to provide it.

In Cantons in which domiciliary relief is provided permission for settlement may be made conditional, in the case of citizens of the Canton, upon the person being capable of work and not having been a permanent charge upon public charity in their former domicile in the Canton of origin.

Every expulsion on account of poverty must be confirmed by the government of the Canton of domicile and notified in advance to the Canton of origin.

The Canton in which a Swiss citizen settles may not require from him any security or impose any special charge upon him in respect of such settlement. Similarly, Communes may not impose on Swiss citizens domiciled within their area any charges other than those imposed upon their own citizens.

The maximum chancery fee chargeable in respect of permits for settlement shall be determined by Federal law.

Article 46.—Persons settled in Switzerland shall normally be subject in all matters of civil law to the jurisdiction and legislation of their place of domicile.

Federal legislation will make the necessary provisions for the application of this principle and for preventing double taxation of a citizen.

Article 47.—Federal legislation shall define the difference between settlement and temporary residence, and at the same time prescribe the regulations governing the political and civil rights of Swiss citizens during temporary residence.

Article 48.—A Federal law shall make provision as to the expenses of the illness and burial of poor citizens of one Canton who fall ill or die in another Canton.

Article 49.—Liberty of conscience and creed is inviolable.

No person may be compelled to become a member of any religious association, submit to any religious instruction, perform any act of religion, or incur any penalties, of any kind whatsoever, by reason of his religious opinions.

Persons exercising the authority of parent or guardian are entitled, in conformity with the foregoing principles, to determine the religious education of children up to the age of sixteen years.

The exercise of civil or political rights may not be limited by any ecclesiastical or religious requirements or conditions of any kind whatsoever.

No person may refuse, on the ground of religious opinion, to fulfil any obligation of citizenship.

No person may be compelled to pay taxes the proceeds of which are specifically appropriated in payment of the purely religious expenses of any religious community of which he is not a member. The application of this principle will be determined by Federal legislation.

Article 50.—The free exercise of religion is guaranteed within limits compatible with public order and morality.

The Cantons and the Confederation may take measures necessary to maintain public order and peace between the members of different religious communities and to prevent encroachments by ecclesiastical authorities upon the rights of citizens and of the State.

Legal proceedings, under public or private law, arising out of the formation of religious communities, or the division of existing religious communities, may be brought by way of petition before the competent Federal authorities.

No bishopric may be created within Swiss territory without the approval of the Confederation.

Article 51.—The Order of Jesuits, and societies affiliated with it, may not be admitted into any part of Switzerland, and all activities in church and school are forbidden to their members.

This prohibition may be extended by Federal decree to other religious orders whose activity is inimical to the State or disturbs the peace between different religions.

Article 52.—The founding of new religious houses or religious orders and the re-establishment of those which have been suppressed, are forbidden.

Article 53.—Civil condition and registration in connection therewith are subject to the civil authorities. Federal legislation will make the necessary provision for the application of this Article.

The control of burial-places is subject to the civil authorities, which must provide that every deceased person may receive decent burial.

Article 54.—The right to marry is under the protection of the Confederation.

No impediment to marriage may be based upon grounds of religious belief, the poverty of either party, their conduct, or any other considerations of a police nature.

Marriages concluded in any Canton or abroad in accordance with the law there prevailing shall be recognized as valid throughout the Confederation.

A wife acquires on marriage the citizenship of the Commune of her husband.

Children born before the marriage are legitimised by the subsequent marriage of their parents.

No marriage fee or similar impost may be levied on either husband or wife.

Article 55.*—Liberty of the press is guaranteed, but the Cantons may by legislation take measures necessary for the prevention of abuses. Such laws must be submitted to the Federal Council for approval. The Confederation may also prescribe penalties in order to suppress abuses of the liberty of the press directed against the Confederation or Federal authorities.

Article 56.—Citizens have the right to form associations provided that the objects and methods of such associations are not unlawful or dangerous to the State. Cantonal legislation will make the necessary provision for the prevention of abuses.

Article 57.—The right of petition is guaranteed.

Article 58.—No person may be withdrawn from his proper Judge. Accordingly, extraordinary tribunals may not be established.

Ecclesiastical jurisdiction is abolished.

Article 59.—Suits for personal claims against a solvent debtor domiciled in Switzerland must be brought before a Judge of his place of domicile; and the property of such a person may not be seized or sequestrated outside the Canton in which he is domiciled in satisfaction of personal claims.

These provisions are, in respect of foreigners, without prejudice to the provisions of international treaties.

Imprisonment for debt is abolished.

Article 60.—Every Canton is bound to accord to citizens of the other Confederated States the same treatment as to its own citizens in regard to legislation and judicial proceedings.

Article 61.—Final civil judgments delivered in any Canton may be executed throughout Switzerland.

Article 62.—Internal taxes on property leaving one Canton for another ("la traite foraine") are abolished throughout Switzerland, together with all rights of first purchase (" le droit de retrait ") by citizens of one canton as against those of another Canton.†

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* See also Article 64.

†It was customary formerly to deduct from 5 to 10 per cent, from all property passing out of the Canton by inheritance or marriage ("la traite foraine"). It was also usual when a person wished to sell land, to recognize a right in his relatives, or even neighbours or fellow-citizens of the Canton, to take the property at an arbitrated value ("le droit de retrait").

Article 63.—Taxes on the transfer of property to foreign countries are abolished, subject to reciprocity.

Article 64*.—The Confederation has power to legislate in regard to—

civil capacity ;
all legal questions relating to commerce and transactions affecting movable property (law of obligations, including commercial law and the law of exchange) ;
literary and artistic copyright ;
the protection of industrial inventions, including designs and models ;
and suits for debt and bankruptcy.

The Confederation has power also to legislate upon other matters of civil law.

The organization of the judiciary, legal procedure and the administration of justice remain vested in the Cantons to the same extent as hitherto.

Article 64(a)†.—The Confederation has power to legislate in regard to the penal law.

The organization of the judiciary, legal procedure and the administration of justice remain vested in the Cantons to the same extent as hitherto.

The Confederation may grant subventions to the Cantons for the construction of penitentiaries, workhouses and houses of correction and for the carrying out of reforms in the penal system. It may likewise give assistance to institutions for the care of deserted children.

Article 65‡.—Sentence of death may not be pronounced for any political offence.

Corporal punishment is forbidden.

Article 66.—Federal legislation will prescribe the limits within which a Swiss citizen may be deprived of his political rights.

Article 67.—Extradition from one Canton to another will be dealt with by Federal legislation, but extradition may not be made obligatory for political or press offences.

Article 68.—The measures to be taken for dealing with persons without nationality (Heimatlosen), and for preventing the occurrence of such cases in future, will be prescribed by Federal legislation.

Article 69§.—The Confederation may take legislative measures to deal with infectious, epidemic and exceptionally dangerous diseases of men and animals.

Article 69(a)‖.—The Confederation has the right to legislate upon trade in (*a*) foodstuffs, and (*b*) other household commodities and articles of general use, in so far as they may be prejudicial to health or life.

Such laws will be executed by the Cantons under the supervision of and with financial assistance from the Confederation.

The Confederation controls importation over the national frontier.

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*This Article was amended as to the protection of inventions by referendum on July 10, 1887. It was again amended to its present form by referendum on March 19, 1905.

The last two paragraphs of this Article were added by referendum on November 13, 1898.

†This Article was added by referendum on November 13, 1898.

‡This Article was amended, as to the death penalty, by referendum on May 18, 1879.

§The Article was amended by referendum on May 4, 1913.

‖This Article was added by referendum on July 11, 1897.

Article 69 (b)*.—The Confederation has the right to legislate on foreigners entering and leaving the country and on their sojourn and establishment within it.

The cantons shall, in accordance with federal law, decide on the sojourn and establishment of foreigners. However, the Confederation has the right to decide in final appeal:

(*a*) on cantonal authorization of prolonged sojourn and establishment as well as on favours granted in this connection,

(*b*) on the violation of treaties of establishment,

(*c*) on cantonal expulsions when they have repercussions on the territory of the Confederation,

(*d*) on the refusal of the right of asylum.

Article 70.—The Confederation may expel from its territory foreigners who compromise the internal or external security of Switzerland.

CHAPTER II

THE FEDERAL AUTHORITIES

I.—The Federal Assembly

Article 71.—Subject to the rights reserved to the people and to the Cantons (Articles 89 and 121), the supreme power of the Confederation is exercised by the Federal Assembly, composed of two divisions or Councils, *viz.*:—

A. The National Council.
B. The Council of States.

A.—The National Council

Article 72.†—The National Council is composed of deputies elected by the Swiss people in the proportion of one member to each 22,000 of the total population. Fractions greater than 11,000 are reckoned as 22,000.

Each Canton, and in the divided Cantons, each half-Canton, elects at last one deputy.

Article 73.‡—Elections to the National Council are direct, and are conducted on the principle of proportional representation. Each Canton or half-Canton forms an electoral constituency. Federal legislation shall make the necessary detailed provision to give effect to this principle.

Article 74.—Every Swiss person who has reached the age of twenty years, and who is not excluded from the rights of active citizenship by the laws of the Canton in which he is domiciled, has the right to take part in elections and pollings.

Article 75.—Every lay Swiss citizen entitled to vote is eligible for membership of the National Council.

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*This Article was added by referendum on October 25, 1925.

†This Article was amended by referendum on March 15, 1931.

‡This Article was amended, to provide for election by Proportional Representation, by referendum on October 13, 1918.

Certain temporary provisions in connection with this Article, as to the holding of elections for the National Council and for the Federal Council, in 1919, were adopted by referendum on August 10, 1919. These are not reproduced here.

Article 76.*—The National Council is elected for a period of four years, and is completely renewed at each election.

Article 77.—Deputies to the Council of States, members of the Federal Council, and officers appointed by that Council, cannot be at the same time members of the National Council.

Article 78.—The National Council selects a Chairman and Vice-Chairman from amongst its members for each ordinary and extraordinary session. A member who has been Chairman during one ordinary session is not eligible, in the next ordinary session, either as Chairman or as Vice-Chairman. The same member cannot be Vice-Chairman during two consecutive ordinary sessions.

In case of an equality of votes, the Chairman has a casting vote ; in elections, he votes in the same way as other members.

Article 79.—The members of the National Council receive an allowance from Federal Funds.

B.—The Council of State

Article 80.—The Council of States is composed of forty-four deputies from the Cantons. Each Canton appoints two deputies ; in divided Cantons each half-Canton elects one.

Article 81.—Members of the National Council and those of the Federal Council may not be deputies to the Council of States.

Article 82.—The Council of States selects a Chairman and Vice-Chairman from among its members for each ordinary and extraordinary session.

Neither the Chairman nor the Vice-Chairman may be elected from among the deputies of the Canton from whose representatives the Chairman was chosen for the ordinary session immediately preceding.

Deputies from the same Canton cannot occupy the office of Vice-Chairman during two consecutive ordinary sessions.

In case of an equality of votes, the Chairman has a casting vote ; in elections, he votes in the same way as other members.

Article 83.—The deputies to the Council of States receive an allowance from the Cantons.

C.—Powers of the Federal Assembly

Article 84.—The National Council and the Council of States deliberate on all matters which this Constitution places within the competence of the Confederation, and which are not assigned to any other Federal authority.

Article 85.—The following matters in particular are within the competence of the two Councils :—

1. Laws dealing with the organisation and mode of election of the Federal authorities.

2. Laws and decrees dealing with matters which the Constitution assigns to the Federal authorities.

*This Article was amended by referendum on March 15, 1931.

3. Salaries and allowances of members of the Federal Departments and of the Federal Chancellery; the establishment of permanent Federal offices, and the determination of salaries in connection therewith.

4. The election of the Federal Council, the Federal Tribunal, the Chancellor, and the Commander-in-Chief of the Federal Army. The right of election or confirmation in respect of other offices may be vested in the Federal Assembly by Federal legislation.

5. Alliances and Treaties with foreign States, confirmation of Treaties made by the Cantons between themselves or with foreign States; provided always that such Cantonal Treaties may be submitted to the Federal Assembly only on appeal by the Federal Council or another Canton.

6. Measures dealing with the external safety and the preservation of the independence and of the neutrality of Switzerland; the declaration of war and the conclusion of peace.

7. Guarantee of the Constitutions and territorial integrity of the Cantons; intervention following upon this guarantee; the internal safety of Switzerland; the maintenance of peace and good order; amnesties and pardons.

8. Measures necessary to ensure the due observance of the Federal Constitution, the guarantee of Cantonal Constitutions, and the fulfilment of Federal obligations.

9. The control of the Federal army.

10. The enactment of the annual budget, the approval of State accounts and decrees authorising loans.

11. General supervision of Federal administration and the Federal Courts.

12. Appeals against decisions of the Federal Council relating to administrative disputes.

13. Conflicts of jurisdiction between the Federal authorities.

14. Revision of the Federal Constitution.

Article 86.—Both Councils meet once a year in ordinary session on a day fixed by Standing Orders.

Extraordinary meetings are summoned by the Federal Council, or on the request of one-quarter of the members, or of five Cantons.

Article 87.—The attendance of an absolute majority of the total number of its members is necessary for the valid transaction of business by either Council.

Article 88.—In both the National Council and the Council of States questions are decided by an absolute majority of those voting.

Article 89.*—Federal laws, decrees and ordinances can be made only by agreement between the two Councils.

Federal laws are submitted for acceptance or rejection by the people if a demand be made by 30,000 active citizens or by eight Cantons. Federal decrees which are of general effect and are not urgent are likewise submitted on demand.

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*The third paragraph of this Article (as to international treaties) was added by referendum on January 30, 1921.

International Treaties concluded for a period of indeterminate duration or of more than fifteen years must also be submitted for acceptance or rejection by the people upon the demand of 30,000 active citizens or eight Cantons.*

Article 90.—Federal legislation shall determine the forms and suspensory intervals to be observed in popular votings.

Article 91.—Members of both Councils vote without instructions.

Article 92.—The two Councils meet separately. Nevertheless, for the purpose of the elections mentioned in Article 85, Section 4, of exercising the right of pardon, or of pronouncing on conflicts of jurisdiction (Article 85, Section 13), the two Councils meet in joint session under the presidency of the Chairman of the National Council, decisions being reached by a majority of all the members of the two Councils voting.

Article 93.—Each of the two Councils and each of their members has the right of initiating laws, decrees, and amendments of the Constitution.

The Cantons can exercise the same right by correspondence.

Article 94.—Meetings of the Council shall normally be public.

II.—The Federal Council

Article 95.—The supreme directing and executive power of the Confederation is exercised by a Federal Council composed of seven members.

Article 96.†—Members of the Federal Council are appointed for four years by the two Councils in joint session, and are chosen from among all Swiss citizens eligible to the National Council. Not more than one person from each Canton may be chosen for the Federal Council.

The Federal Council is completely renewed after every general election of the National Council.

Vacancies arising within the normal period of four years are filled at the next meeting of the Assembly for the remainder of the period of office.

Article 97.—The members of the Federal Council may not, during their term of office, occupy any other position, whether in the service of the Confederation or of a Canton, or engage in any other calling or profession.

Article 98.—The President of the Confederation presides over the Federal Council. A Vice-President of the Council shall also be appointed.

The President of the Confederation and Vice-President of the Federal Council are nominated by the Assembly for one year from amongst members of the Federal Council.

An outgoing President cannot be elected President or Vice-President for the following year.

The same member cannot act as Vice-President for two consecutive years.

Article 99.—The President and other members of the Federal Council receive an annual salary paid from Federal funds.

Article 100.—At least four members of the Federal Council must be sent for the valid transaction of business.

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*The entry of Switzerland into the League of Nations was decided by referendum on May 16, 1920.

†This Article was amended by referendum on March 15, 1931.

Article 101.—Members of the Council have the right to speak, but not to vote, in both divisions of the Assembly, as well as the right of proposing motions on subjects under discussion.

Article 102.—The powers and duties of the Federal Council, within the limits of the Constitution, are more particularly the following :—

1. It directs all Federal business in accordance with the laws and decrees of the Confederation.

2. It ensures the observance of the Constitution and the laws and decrees of the Confederation and of Federal concordats. It takes the necessary measures to this end, upon its own initiative or upon complaint made, in such cases as are not required to be dealt with by the Federal Tribunal in accordance with Article 113.

3. It enforces the guarantee of the Cantonal Constitutions.

4. It drafts laws and decrees for presentation to the Federal Assembly and reports upon proposals submitted by the Councils or by the Cantons.

5. It provides for the execution of the laws and decrees of the Confederation, of the judgments of the Federal Tribunal, and of agreements and arbitration awards upon disputes between Cantons.

6. It makes such appointments as are not entrusted to the Federal Assembly, Federal Tribunal, or other authority.

7. It examines treaties made between the Cantons with one another of with foreign countries, and gives its approval thereto if it think fit (Article 85 Section 5).

8. It watches over the external interests of the Confederation, particularly in regard to the observance of international agreements, and has general charge of foreign affairs.

9. It ensures the external safety of Switzerland and the maintenance of its independence and neutrality.

10. It ensures the internal safety of Switzerland and the maintenance of peace and order.

11. In case of urgency arising when the Federal Assembly is not in session, the Federal Council has authority to call out troops and employ them as it may think necessary, provided that it must convene the Councils immediately if the number of troops called out exceeds two thousand or if they remain mobilized for more than three weeks.

12. It has charge of the Federal military forces and of all branches of the administration thereof which are vested in the Confederation.

13. It examines the laws and ordinances of the Cantons which are required to be submitted to it and supervises the branches of Cantonal administration which are placed under its control.

14. It administers the finances of the Confederation, prepares the budget and submits accounts of receipts and expenditure.

15. It supervises the conduct of business by all officials and employees of the Federal administration.

16. It gives an account of its work to the Federal Assembly in each ordinary session, presents to it a report upon the internal condition and foreign relations of the Confederation, and recommends for consideration such measures as it thinks useful for promoting the general welfare.

It makes special reports whenever the Federal Assembly or either division thereof so demands.

Article 103.*—The business of the Federal Council is distributed among its members by departments. All decisions emanate from the Federal Council as a single authority.

Federal legislation may authorise departments, or services in connection therewith, themselves to control certain affairs, subject to a right of appeal.

The cases in which such appeal may be made to a Federal Administrative Court shall be determined by Federal legislation.

Article 104.—The Federal Council and its departments are authorised to call in experts for special purposes.

III.—The Federal Chancellery

Article 105.**—The FederalChancellery, under the Chancellor of the Confederation, acts as the Secretariat of the Federal Assembly and the Federal Council.

The Chancellor is elected for four years by the Federal Assembly and holds office concurrently with it.

The Chancellery is under the special supervision of the Federal Council.

The organization of the Chancellery is determined by Federal legislation.

IV.—The Federal Tribunal

Article 106.—A Federal Tribunal is established for the administration of justice in Federal matters.

In penal cases trial is by jury.

Article 107.—Judges of the Federal Tribunal and their substitutes are appointed by the Federal Assembly, who shall have regard to the representation of the three national languages. The organisation of the Court, its divisions, number of Judges, and substitutes, their term of office and emoluments, are determined by law.

Article 108.—Any citizen eligible for the National Council may be appointed to the Federal Tribunal, but members of the Federal Council or of the Federal Assembly, or officials appointed by them, cannot simultaneously be members of the Federal Tribunal. Judges of this Court may not, during their term of office, occupy any other position, either in the service of the Confederation or in that of a Canton, nor follow any other calling or profession.

Article 109.—The organization of the Secretariat of the Tribunal and the appointment of the staff thereof are in the hands of the Federal Tribunals.

Article 110.—The judicial power of the Federal Tribunal extends to civil cases—

1. between the Confederation and the Cantons ;
2. between the Confederation of the one part, and corporations or individuals of the other part, when the latter are plaintiffs and the matter in dispute reaches the degree of importance to be prescribed by Federal legislation ;

*This Article was amended by referendum on October 25, 1914.

**This Article was amended by referendum on March 15, 1931.

3. between Cantons;

4. between Cantons of the one part, and corporations or individuals of the other part, where either party so demands and the matter in dispute reaches the degree of importance to be prescribed by Federal legislation.

The Federal Tribunal also has jurisdiction in regard to loss of nationality ("Heimatlosat") and disputes between Cantons concerning the right of citizenship of a commune.

Article 111.—The Federal Court is bound to judge other cases when the parties lodge security and the matter in dispute is of the degree of importance to be prescribed by Federal legislation.

Article 112.—The Federal Tribunal, with the assistance of a jury to try the facts, has penal jurisdiction as to—

1. cases of high treason against the Confederation and of revolt and violence against the Federal authorities;

2. crimes and offences against the law of Nations;

3. crimes and political offences which are the cause of, or are consequent upon, disorders necessitating the intervention of the Federal army;

4. charges against officials appointed by a Federal authority when brought before the Tribunal by that authority.

Article 113.—The Federal Tribunal also has jurisdiction in regard to—

1. conflicts of jurisdiction between Federal authorities of the one part and Cantonal authorities of the other part;

2. disputes between Cantons in matters of public law;

3. complaints of violation of the constitutional rights of citizens and complaints by individuals of violation of concordats and treaties.

Administrative disputes are excluded from its jurisdiction, subject to the provisions of Federal legislation.

In all the cases above mentioned, the Federal Tribunal shall administer the laws passed by the Federal Assembly, and such decrees of that Assembly as are of general application. It shall likewise act in accordance with treaties ratified by the Federal Assembly.

Article 114.—In addition to the matters mentioned in Articles 110, 112 and 113, other matters may be placed by Federal legislation under the jurisdiction of the Federal Tribunal; in particular, powers may be conferred on the Tribunal for the purpose of ensuring the uniform application of the provisions of Article 64.

IVA.—Federal Administrative and Disciplinary Jurisdiction

Article 114 (a).*—The Federal Administrative Court has jurisdiction in regard to administrative disputes in Federal matters referred to it by Federal legislation.

It also has jurisdiction in disciplinary cases in Federal administration referred to it by Federal legislation, in so far as such cases are not reserved to a special jurisdiction.

The administrative Court shall administer the Federal laws and treaties approved by the Federal Assembly.

Subject to the approval of the Federal Assembly, the Cantons have the right to give the Federal Administrative Court jurisdiction in administrative cases in Cantonal affairs.

The organization and procedure of the Federal Administrative and Disciplinary Judiciary are regulated by law.

V.—Miscellaneous Provisions

Article 115.—The seat of government of the Confederation and all matters in relation thereto shall be determined by Federal legislation.

Article 116.—The three principal languages spoken in Switzerland, German, French and Italian, are the national languages of the Confederation.

Article 117.—Officials of the Confederation are held responsible for their conduct in office. Their responsibility shall be determined by Federal legislation.

CHAPTER III†

REVISION OF THE FEDERAL CONSTITUTION

Article 118.—The Federal Constitution may at any time be wholly or partially amended.

Article 119.—A total revision is effected through the forms required for passing Federal laws.

Article 120.—When either division of the Federal Assembly passes a resolution for the total revision of the Constitution, and the other division does not agree, or when 50,000 Swiss voters demand a total revision, the question whether the Constitution ought to be revised is in either case submitted to the people, who vote "Yes" or "No."

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*This Article was added by referendum on October 25, 1914.

†This Chapter was amended by referendum on July 5, 1891.

If in either case a majority of the Swiss citizens who vote pronounce in the affirmative, there shall be a new election of both Councils for the purpose of undertaking the revision.

Article 121.—A partial revision may take place by means of the popular initiative, or through the forms prescribed for passing Federal laws.

The popular initiative consists in a demand by 50,000 Swiss voters for the addition of a new Article to the Constitution, or for the repeal or modification of certain Articles of the Constitution already in force.

If by means of the popular initiative several different provisions are presented for revision or for addition to the Federal Constitution, each must form the subject of a separate initiative demand. The initiative demand may take the form of a proposal in general terms or of a Bill complete in all details.

When a demand is couched in general terms the Federal Assembly, if it approve thereof, will proceed to undertake the partial revision in the sense indicated in the demand, and will submit it for adoption or rejection by the people and the Cantons. If, on the contrary, it does not approve, the question whether there shall be a partial revision or not must be submitted to the vote of the people; if a majority of the Swiss citizens taking part in the vote pronounce in the affirmative, the Federal Assembly will proceed to undertake the revision in conformity with the decision of the people.

When a demand is presented in the form of a Bill complete in all details, and the Federal Assembly approves thereof, the Bill shall be submitted for adoption or rejection by the people and the Cantons. If the Federal Assembly does not approve, it may frame a Bill of its own or recommend to the people the rejection of the Bill proposed, and submit to the people its own Bill or proposal for rejection at the same time as the Bill presented by popular initiative.

Article 122.—Federal legislation shall determine the formalities to be observed in regard to popular initiative demands and to voting concerning the revision of the Federal Constitution.

Article 123.—The revised Federal Constitution, or the revised part thereof, shall come into force when it has been accepted by a majority of the Swiss citizens taking part in the voting thereon and by a majority of the States.

In reckoning a majority of the States the vote of a half Canton is counted as half a vote. The result of the popular vote in each Canton is to be regarded as the vote of the State.

Transitory Provisions

(These Articles have not been translated. They consisted of temporary provisions relating to financial adjustments, nullification of laws, etc., in conflict with the Constitution, the establishment of the Federal Tribunal, the postponement of the introduction of free elementary education, and the general validity of Cantonal professional diplomas.)

Temporary Articles

An Article was temporarily added to the Constitution in 1915 to provide for the imposition of taxes on capital and income for the purpose of meeting the expenses incurred by the Confederation in the mobilization of troops as a result of the European War. A similar Article was added in 1919, providing for the imposition of capital and income-taxes for a period of four years, renewable for periods of the same duration until the war expenditure had been met. Both these Articles were submitted to and approved by the people by Referendum on June 6, 1915.

(These Articles have not been translated.)

THE FREE CITY OF DANZIG

Area : 754 *Square miles* *Population :* 408,000.

Introduction

Until the close of World War I, Danzig was the capital of West Prussia. It was separated, with a part of the surrounding country, from the German Empire by the Treaty of Versailles and given the status of a free city. The decision represented a compromise between the demand of the new Polish State for a corridor and the difficulty of placing a city of 96 per cent. Germans under another sovereignty. The Constitution, drafted by a Constituent Assembly elected in May, 1920, was ratified, with small amendments, by the League of Nations and finally authorized by the High Commissioner of the League on May 11, 1922.

The area of the "Free City", including the city of Danzig and the adjacent territory, was 791 sq. miles. The population (in 1924) was 385,000, of which 96 per cent., were Germans ; two-thirds of the population were Evangelical and one-third Roman Catholic. The Free City comprised, beside the city of Danzig (population 231,000), the municipality of Zoppot (population 27,500), the two towns of Tiegenhof (population 3,100) and Neuteich (population 2,900) and some greater communities as Praust (population 3,400) and Ohra (population 12,500). The following points of the Constitution may be noted :—

(1) The sovereign power was vested in the people.

(2) There was a Popular Assembly consisting of 120 deputies elected for four years by proportional representation.

(3) The Senate was *an executive as well as a legislative body* : it conducted the administration of the State and was responsible for policy to the Popular Assembly. Bills had to be passed by the Senate as well as by the Popular Assembly before they could become law. There was provision for a referendum in the event of a conflict.

(4) The President and seven other principal senators were elected by the Popular Assembly for four years. The Vice-President and the thirteen other secondary senators were elected by the Popular Assembly for an indefinite period. The secondary senators had to possess the confidence of the Popular Assembly in the performance of their duties and to retire when confidence was withdrawn by an express resolution of the Assembly.

As regards administrative details,

(*a*) The harbour and water-ways of the Free City were administered by a Commission consisting of five nominees of Danzig and Poland under a President, who had to be of Swiss nationality and appointed by the League, if Danzig and Poland could not agree on his appointment.

(*b*) The main railways in the Free City formed part of the Polish railway system, Danzig being given a representative on the Directorate of the latter.

(*c*) The foreign relations of the Free City were conducted by the Polish Government, which was also entrusted with the protection of Danzig nationals abroad.

(*d*) The Free City was in customs union with Poland.

(*e*) Posts, telegraphs and telephones were under the administration of the Free City which was a member of the International Postal Union. Poland was entitled to have a post office in the harbour for maintaining direct communication between Danzig and Poland, as well as between Poland and overseas countries.

(*f*) The Free City had its own currency.

(*g*) The High Commissioner of the League of Nations decided in the first instance all differences arising between Danzig and Poland in regard to the Treaty of Versailles or any arrangements or agreements thereunder, either party having a right of appeal to the Council of the League.

CONSTITUTION
OF
THE FREE CITY OF DANZIG

Part I
ORGANISATION OF THE STATE

I. General

Article 1.—The City of Danzig and the territory attached thereto shall form a Free State under the name of the "Free City of Danzig".

Article 2.—The arms of the State shall be: On a red shield two silver crosses superimposed, above which is placed a golden crown.

The State flag and the commercial flag shall be on a red ground; in the first third, counting from the mast, and parallel thereto, two white crosses, one above the other and surmounted by a yellow crown.

Article 3.—The Sovereign Power in the State shall be vested in the people.

Article 4.—The official language shall be German.

The Polish-speaking portion of the population shall have guaranteed its free racial development by the law and the administration, in particular as regards the use of its mother-tongue in the schools and in the internal administration and as well as in the administration of justice. Details will be determined by law.

Article 5.—The Free City of Danzig cannot, without the previous consent of the League of Nations, in each case:

(1) Serve as a military or naval base.

(2) Erect fortifications.

(3) Authorise the manufacture of munitions or war material on its territory.

II. Popular Assembly

Article 6.—The Popular Assembly (Volkstag) shall consist of one hundred and twenty deputies.

Article 7.—The deputies to the Popular Assembly shall be representatives of the whole people. They shall be responsible solely to their own consciences and shall not be bound by any instructions.

Article 8.—The deputies shall be elected by universal, equal, direct and secret suffrage by all citizens, of either sex over twenty years of age, in accordance with the principles of proportional representation.

Any person entitled to vote, who has completed his or her twenty-fifth year, shall be eligible as a deputy.

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(1) In accordance with the provisions of Article 103 of the Treaty of Peace of Versailles and the decisions of the Council of the League of Nations, the Constitution has been placed under the guarantee of the League of Nations. This Constitution was agreed by the High Commissioner of the League of Nations in Danzig on May 11th, 1932.

Further information on the Constitution will be found in the Official Journal of the League of Nation as follows:

Official Journal, 1st year, No. 2, pages 53-55; No. 3, pages 84-85; No. 4, page 208.
2nd year, No. 2, pages 166-170; No. 7, pages 663-666.
3rd year, No. 2, page 97 and Annex 299; No. 6 (part II), page 532 and Annex 346,

The following shall be excluded from the exercise of the franchise :—

(*a*) Persons declared incapable of managing their own affairs or placed provisionally under guardianship, or persons educated under official supervision.

(*b*) Persons deprived of their rights of citizenship by a judicial sentence.

Article 9.—The Popular Assembly shall be elected for four years. Elections shall take place on a Sunday in November. The newly elected Assembly shall enter on its duties as from January 1st of the year following that of the election.

The necessary details will be embodied in the Electoral Law.

Article 10.—All petitions against the validity of the election of members shall be decided by the Supreme Court of the Free City of Danzig. Such cases shall be heard in open court.

Any person entitled to vote shall have the right to lodge an objection. Such objections must be submitted, together with evidence, to the Supreme Court of the Free City, within four weeks of the official return of the result of the election.

The documents relating to the election of deputies shall, when completed, be laid before the Popular Assembly.

Should there be any doubt whether the legal requirements for the office of Deputy have been fulfilled, the Supreme Court of the Free City of Danzig shall, at the request of the Popular Assembly, give a decision.

Article 11.—The Popular Assembly shall elect its own President, Vice-President and Clerks ; it shall determine its own rules of procedure.

Article 12.—The Popular Assembly shall meet when summoned by its President. It must be summoned at the demand of the Senate, or on a written application, stating the purpose of the summons, made by at least one-sixth of the members.

It shall meet for the first time at the summons of the Senate, and not later than January 15th.

Article 13.—The President shall exercise authority and disciplinary power within the Assembly building. The administration of the House shall be in his hands ; he shall control the income and expenditure of the House in accordance with the provisions of the Budget, and shall represent the Free City in all legal transactions and in any litigation that concerns his administration.

Article 14.—The business of the Popular Assembly shall be conducted in public. The public may be excluded on a motion of the Senate, or on that of at least one-sixth of the members, adopted by a two-thirds majority.

Article 15.—Correct reports of proceedings at public sessions may be published without any responsibility being incurred.

Article 16.—Not less than one-half of the deputies of the Assembly must be present to constitute a quorum.

Article 17.—Decisions of the Popular Assembly shall require a simple majority of votes except in so far as the Constitution provides otherwise.

Article 18.—The Senate shall be invited to be present at every meeting of the Popular Assembly. Members and representatives of the Senate shall be given a hearing at any time during the meetings. They shall be subject, in matters of discipline, to the authority of the President.

The Popular Assembly and its Committees may demand the presence of any member of the Senate.

Article 19.—The Popular Assembly shall be authorised to demand information from the Senate on all affairs of the State, to satisfy itself regarding the execution of its decisions and the disposal of the State revenues. The subjects regarding which information is required shall be previously communicated to the Senate in writing.

When the legality or propriety of any governmental or administrative measure is called in question, the Popular Assembly shall be entitled, and on the motion of one-fifth of its members shall be bound, to appoint a Committee of Enquiry.

Committees of Enquiry shall not interfere in legal or disciplinary proceedings which are still pending. These Committees shall call for such evidence—to be produced in public session—as they or the proposer of the motion may consider necessary. A two-thirds majority of a Committee of Enquiry may decide that the meetings shall be private. The procedure of the Committee and the number of its members shall be determined by the standing orders. The Judicial and Administrative Authorities shall be bound to produce any evidence called for by these Committees. Documents in the possession of these authorities shall be laid before such Committees, if they so desire. The regulations for procedure in criminal cases shall apply to the enquiries by these Committees or by such authorities as they have instructed, but the secrecy of communications by letter, telegram and telephone shall not be infringed.

Article 20.—No one shall be made subject to any judicial or administrative penalty, or be called to account in other ways outside the Assembly, because of his vote or any utterances made by him in virtue of his office as deputy.

Article 21.—No deputy may, without the consent of the Assembly, be subjected to examination or arrested on account of any punishable act unless he has been arrested while actually committing the said act, or at the latest during the course of the following day. A like consent is necessary for any other restriction of personal liberty calculated to interfere with a deputy in the free exercise of his office.

The Popular Assembly may require any criminal or disciplinary proceedings, any arrest or other restriction placed on the personal liberty of a deputy to be suspended during his term of office.

Article 22.—Deputies are entitled to refuse to give evidence both as to the identity of persons who have communicated information as to any facts to them in their capacity as deputies, or to whom they have made such communications in that capacity, and also as to the nature of these facts themselves. With regard to the seizure of documents, deputies shall have the status of persons possessing a legal right to refuse evidence.

Judicial searches or seizures may not be undertaken in the building of the Popular Assembly except with the consent of the President of the Assembly.

Article 23.—Deputies shall receive allowances in accordance with the provisions of a special law.

Article 24.—Officials, employees and workmen shall not require special leave for the purpose of carrying out their duties as members of the Popular Assembly, the District and Municipal Councils, or any administrative offices and committees.

If any such person be nominated as a candidate for election, he shall be granted the necessary leave, from the time at which the writs for the election are issued, for the purpose of preparing for the election.

III. The Senate

Article 25.—The Senate shall consist of the President as Chairman, the Vice-President as Vice-Chairman, and twenty Senators.

The President and the seven other principal Senators shall be elected by the Popular Assembly for four years. The elections must take place not earlier than six months and not later than twelve months after the beginning of the term of office of the Popular Assembly. The persons elected shall assume their duties one year after the beginning of the term of office of the Popular Assembly which has elected them. In case of resignation or decease, a successor shall be elected only for the remainder of the term of office of the Senator who had died or resigned. The term of office of the President and the seven other principal Senators, elected by the first Popular Assembly, shall expire one year after the beginning of the term of office of the second Popular Assembly.

The Vice-President and the thirteen Senators acting in a secondary capacity (*Nebenamt*) shall be elected by the Popular Assembly for an indefinite period.

The vote shall be secret and shall be by ballot. The candidate receiving the majority of votes recorded shall be elected. If an absolute majority be not secured at the first ballot, the two persons who have secured the most votes shall be voted for a second time. If both candidates receive an equal number of votes at the second ballot, the decision shall be taken by lot; the lots shall be drawn by the President of the Popular Assembly.

Article 26.—Any person shall be eligible for membership of the Senate who has completed his twenty-fifth year. A member may be re-elected.

The following are ineligible :—

(*a*) Persons declared wholly or partly incapable of managing their own affairs, or placed provisionally under guardianship.

(*b*) Persons deprived of their rights of citizenship by a judicial sentence.

(*c*) Undischarged bankrupts.

Article 27.—No person shall be obliged to accept election as a member of the Senate. A member may resign at any time.

Article 28.—At the first meeting of the Popular Assembly after the election or, in the case referred to in the third sentence of the second paragraph of Article 25, after the beginning of the term of office, the newly elected member of the Senate shall be installed in his office, in the presence of the Senate, by the President of the Senate or his deputy.

The new member of the Senate shall solemnly pledge himself by a handshake and shall make the following affirmation :—

> "*I will faithfully carry out my duty as a member of the Senate, and will conscientiously perform the work of my office. I will observe the Constitution and the laws, I will maintain secrecy in regard to all matters which it is my duty to treat as confidential, and will, to the best of my ability, promote the welfare of the Free City of Danzig.*"

The addition of a religious oath is permissible.

Article 29.—The members of the Senate acting in a secondary capacity must possess the confidence of the Popular Assembly in the performance of their duties, and shall be answerable to that body for their official acts.

Members of the Senate acting in a secondary capacity from whom the Popular Assembly has withdrawn its confidence by a resolution expressly to that effect shall cease to belong to the Senate.

Article 30.—A member shall cease to belong to the Senate should any of of the cases arise mentioned in Article 26, which render him ineligible for election.

Article 31.—Should the whole Senate resign, it shall continue to discharge its duties until the election of the new Senate.

Article 32.—A member of the Senate may, on a resolution of the Popular Assembly, be impeached for any infringement of the Constitution, or of a law. The motion calling for impeachment must be signed by at least one-quarter of the members of the Popular Assembly. Judgment shall be pronounced by the Supreme Court of the Free City.

Further regulations shall be laid down in a special law.

Article 33.—The principal Senators shall receive the salary fixed by law. Special legislation shall be enacted to provide for pensions and allowances to their widows and dependents.

The members of the Senate acting in a secondary capacity shall receive a subsistence allowance to be determined by a special law.

Article 34.—The principal Senators shall hold no other public office, nor shall they, without the approval of the Senate, follow any other profession; the members acting in a secondary capacity shall hold no public office except with the approval of the Senate.

No member shall serve on a board of managers or of directors of a commercial company without the consent of the Senate.

Article 35.—The Senate shall determine the conduct of its business and the distribution of duties amongst its members.

Article 36.—The President of the Senate shall direct and shall exercise general supervision over the work of the Administration. In all cases in which disadvantage might result from the loss of time due to the necessity of obtaining authority in advance from the Senate, the President, in consultation with the Vice-President, or, in his absence, with the senior Senator, shall himself, for the time being, carry out the duties which devolve on the Senate; he shall nevertheless inform the Senate, at the next meeting, of the steps which he has taken in order that it may approve his action, or decide on some other course.

Article 37.—The meetings of the Senate shall not be open to the public. Not less than one-half of the members of the Senate must be present to constitute a quorum. Decisions shall require a simple majority of votes. In case of an equality of votes the President shall have a casting vote.

A member shall not take part in the discussion or voting upon any subject which concerns his own affairs, or those of persons belonging to his family; he shall withdraw from the Chamber during such discussions.

Article 38.—The Senate shall direct the policy of the Government and be responsible for it to the Popular Assembly.

Article 39.—The Senate is the highest authority in the land. Its particular duties are as follows:

(*a*) It shall promulgate all laws within a month of their adoption according to constitutional procedure, and shall issue all regulations necessary to ensure their execution.

(*b*) It shall of its own authority conduct the administration of the State within the limits of the Constitution, of the laws and of the Budget, and shall exercise supervision over all the State authorities.

(*c*) It shall draft the Budget.

(*d*) It shall administer the property and revenues of the State. It shall allocate revenue and expenditure, and it shall represent the State in the defence of its rights.

(*e*) It shall nominate public servants, so far as is not otherwise provided by the Constitution or by law.

(*f*) It shall provide for the safety and common welfare of the State and all its nationals within the limits of the Constitution and the laws, and shall issue all regulations necessary for this purpose.

Article 40.—The Senate shall have the right to remit punishment and to pardon.

Article 41.—The Senate shall represent the Free City of Danzig in so far as this is not contradictory to the stipulations providing for the conduct of the foreign relations of the Free City of Danzig by the Polish Government, in accordance with Article 104, paragraph 6, of the Treaty of Peace of Versailles.

Official documents shall be signed in the name of the Free City of Danzig by the President or the Vice-President, and by one other member of the Senate.

Article 42.—The Senate of the Free City shall furnish to the League of Nations at any time upon the request of the latter, official information regarding the public affairs of the Free City.

IV. Legislation

Article 43.—Bills must be adopted in the same form by the Popular Assembly and the Senate in order to be passed into law.

If the Senate does not concur within two weeks in a decision adopted by the Popular Assembly regarding a bill, the latter shall be sent back to the Popular Assembly.

If the Popular Assembly adheres to its decision, the Senate shall accept the decision within one month, or appeal to the decision of the people (referendum).

Article 44.—Laws shall come into force on the eighth day after the day on which they are published in the *Official Gazette* for the Free City of Danzig, unless otherwise provided by the law.

Article 45.—Legislation shall likewise be required for:

(*a*) The annual Budget.
(*b*) The issue of loans.
(*c*) The introduction of monopolies and the concession of privileges.
(*d*) The alteration of boundaries of the municipalities.
(*e*) A general amnesty.
(*f*) The conclusion of treaties with other States; this stipulation must not prejudice the stipulations providing for the conduct of the foreign relations of the Free City of Danzig by the Polish Government, in accordance with Article 104, paragraph 6, of the Treaty of Peace of Versailles.

Article 46.—Bills shall be introduced by the Senate, or by the Popular Assembly or by bodies to be constituted by a special law representing the various professions and trades.

Bills dealing with economic policy or social questions shall be submitted to the above professional bodies for their opinion.

Article 47.—A referendum shall be taken on the demand of one-tenth of the electorate, who shall at the same time submit a complete draft of the bill. The bill in question shall be laid before the Popular Assembly by the Senate, with a statement of its views thereon. The referendum shall not be resorted to if the bill is accepted without amendment by the Popular Assembly.

Article 48.—A referendum shall not be resorted to on the Budget, or on legislation imposing taxation, or on decrees regulating salaries, except at the demand of the Senate.

All citizens qualified to vote for the Popular Assembly may take part in any referendum. The decision shall be adopted by a simple majority of the votes recorded. A decision of the Popular Assembly can only be reversed by a referendum if the majority of the electorate take part in the voting.

The procedure of referendum shall be determined by law.

Article 49.—An amendment to the Constitution proposed by the Popular Assembly cannot be adopted unless it passes its second reading by a two-thirds majority, at least two-thirds of the elected deputies being present. At least one month shall elapse between the first and second readings.

The consent of the majority of the electorate shall be required in case of the adoption of an amendment to the Constitution by a referendum.

Amendments to the Constitution can only come into force after they have been communicated to the League of Nations and after the League has stated that it has no objection to these amendments.

V. Administration

Article 50.—An annual statement of all proposed revenue and expenditure of the State shall be drawn up in advance, and embodied in the Budget. The financial year shall run from April 1st to March 31st.

Article 51.—If the Budget for the following financial year shall not have become law before the end of the current year, the Senate shall be bound to submit a provisional Budget. It shall only be entitled to collect taxes and other imposts previously in existence, and may only continue to do so for six months after the close of the financial year; it shall only authorise such expenditure as may be required for the maintenance of legally established institutions, or for the execution of measures which have been legally sanctioned; it shall be further authorised to meet all legal obligations of the State and to carry on the public works and other undertakings which have already been sanctioned by the Budget of the previous year.

Article 52.—Funds shall only be obtained upon credit in cases of special necessity and, as a rule, only for expenditure for productive purposes.

Article 53.—When the Popular Assembly adopts decisions which involve expenditure additional to the Budget, it shall at the same time provide for the meeting of such expenditure.

Article 54.—If the total of the Budget is to be exceeded, or if any expenditure not provided for in the Budget is to be incurred, the subsequent consent of the Popular Assembly must be obtained. Such consent shall only be given in the cases of unforeseen and unavoidable requirements.

Article 55.—Budget accounts shall be audited and established by an independent auditing office. The general Budget accounts for each year, including a summary of State indebtedness, accompanied by the comments of the auditing staff, shall be laid before the Popular Assembly by the Senate, which shall thus be relieved of its responsibility in the matter.

Article 56.—The approval of the Financial Council shall be required :

(*a*) For fresh taxation.

(*b*) For the issue of loans and the undertaking of guarantees.

(*c*) For expenditure which is not already covered, or which is to be covered by a loan.

If the Financial Council does not give its approval, it shall communicate the fact to the Senate within two weeks, and shall state its reasons in writing within a further period of two weeks. The Popular Assembly shall then take a fresh decision.

The composition and procedure of the Financial Council shall be determined by a special law.

Article 57.—The Railway, Postal, Telegraph and Telephone Services of the Free City shall be matters within the purview of the State, without prejudice to the Treaty concluded in accordance with Article 104 of the Treaty of Peace of June 28th, 1919.

Article 58.—Offices shall be established for the permanent administration or supervision of the different branches of the Public Services. Danzig nationals entitled to vote may be attached to these offices, in an honorary capacity, as members.

The offices shall be in all respects subject to the control of the Senate.

Further regulations will be laid down by law.

Article 59.—Committees may be constituted for the discharge of business of a temporary nature.

Article 60.—The representatives of the Free City of Danzig to sit on international Committees which have been instituted by international conventions for the administration of undertakings or institutions, or for the discharge of permanent or temporary duties, shall be elected by the Popular Assembly. The latter may delegate the appointment of such representatives to one of its committees or to the Senate.

VI. Administration Of Justice

Article 61.—Judges shall be independent and subject only to the law.

Article 62.—Extraordinary tribunals shall not be permitted. No person shall be withdrawn from the jurisdiction of his lawful judge.

Article 63.—The constitution and competence of the Courts shall be prescribed by law.

Article 64.—The judges of the regular judicature shall be elected for life by a special committee consisting of the President and one member of the Senate, the three Presidents of the Popular Assembly, the President of the Court of Justice, three judges elected by the whole body of judges and two advocates elected by the whole body of advocates of the Free City of Danzig. Further regulations, regarding, in particular, the provision of substitutes for members of the Committee who are prevented from attending, the procedure of election and the method of voting, will be determined by law.

Article 65.—Judges shall not be deposed from their office, or transferred to another bench or placed in retirement against their will, whether permanently or temporarily, except in consequence of a judicial decision, and then only for the reasons and in the form laid down by the law. An age may be fixed by the law at which judges shall retire from office.

This clause shall not affect temporary suspensions carried out in virtue of the law.

Should alterations be introduced in the system of courts or of circuits, judges may be compulsorily transferred to another bench or removed from their office by the Committee referred to in Article 64, but they shall continue to receive their full salary.

These provisions shall not apply to judges of the commercial courts, assessors, or jurors.

Article 66.—The conditions governing the eligibility of judges for election, and their official status, shall be determined by special legislation, which may only be amended in the manner specified by Article 49.

VII. Communal Organisation

Article 67.—The territory of the State shall be divided into urban districts and rural districts.

Article 68.—Rural districts, towns and communes shall have powers of self-government under the supervision of the Senate, in accordance with the provisions of special laws. Matters of State administration may also be transferred to their jurisdiction.

Article 69.—The City of Danzig is an independent commune of the State, possessing its own property.

The communal affairs of the City of Danzig shall rank as affairs of State, and shall be administered by the Senate and Popular Assembly.

A City Council shall be elected by the Popular Assembly from its members and from other citizens of the City of Danzig to decide upon the communal affairs of the City of Danzig. The composition and competence of this Council shall be determined by a special law.

Article 70.—The principles governing elections to the Popular Assembly shall apply also to town, district and communal elections, but six months' residence shall be necessary to qualify for the right to vote.

Part II

FUNDAMENTAL RIGHTS AND DUTIES

Article 71.—Fundamental rights and duties shall govern the direction and determine the scope of legislation, the administration of justice and the conduct of public affairs.

I. Individuals

Article 72.—The nationality of the State shall be acquired and forfeited in accordance with the provisions laid down by law.

The principles of the draft of the law contemplated by this Article shall be submitted for the examination of the League of Nations by May 23rd, 1921, at the latest.

Article 73.—All nationals of the Free City shall be equal before the law. Exceptional laws shall be inadmissible.

Men and women shall have the same civil rights and duties.

There shall be no legal privileges or disqualifications due to birth, position or creed.

Titles—with the exception of Academic degrees—shall not be awarded except when they denote an office or a profession.

Orders and decorations may not be awarded by the Free City.

No national of Danzig may accept titles or orders.

Titles of nobility shall be regarded only as part of a name, and shall no longer be conferred.

Article 74.—The liberty of the person shall be inviolable. No limitation or deprivation of personal liberty may be imposed by public authority, except by virtue of a law.

Persons who have been deprived of their liberty must be informed at the latest on the following day by what authority and on what grounds the deprivation of liberty has been ordered. Opportunity must immediately be given them to lodge objections against such deprivation of liberty.

Article 75.—All nationals shall enjoy freedom of movement within the Free City and shall have the right to stay and to settle at any place they may choose, to acquire real property and to earn their living in any way. This right shall not be curtailed without legal sanctions.

Article 76.—Every national shall be entitled to emigrate to other countries. Emigration cannot be restricted except by law.

Every national, whether within or outside the territory of the State, shall have the right to claim the protection of the State in his relations with foreign countries.

No national shall be handed over to a foreign Government for prosecution or punishment.

Article 77.—Establishments set up by the State at the public expense in the interests of internal colonisation shall not be used to the prejudice of any particular nationality.

Article 78.—The secrecy of correspondence, as well as of the postal, telephone and telegraph services, shall be inviolable. Exceptions can only be made by legal enactment.

Article 79.—Every person shall have the right, within the limits of the law, to express his opinion by word, writing or in any other manner. He may not be obstructed in this right by any conditions of his work or appointment, and no disadvantage of any kind may be imposed on him on account of his exercise of such right.

There shall be no censorship. Regulations for the conduct of cinematographs may, however, be made, in derogation from this law. Legislative measures shall be adopted to combat obscene or indecent literature, and to protect young persons at public representations and performances.

Article 80.—Marriage, as the foundation of family life, shall be placed under the special protection of the State. It shall rest upon the equality of rights of both sexes.

Large families shall have a claim to corresponding special support. Motherhood shall have a claim to the protection and care of the State.

Article 81.—The education of children to physical, moral and social efficiency shall be the supreme duty and natural right of the parents; the political community shall supervise the performance of these duties.

Article 82.—The laws of the State shall provide the same opportunities of physical, moral and social development for illegitimate children as for children born in wedlock.

Article 83.—Young persons shall be protected against exploitation as well as against moral, spiritual and physical neglect. Compulsory measures to ensure their welfare may only be adopted if sanctioned by the law.

Article 84.—All nationals shall have the right, without notification and special permission, to assemble peaceably and without arms. Notice shall be given of open-air meetings and permission may be withheld in case of immediate danger to public security. Special provisions may be made for the protection of the popular Assembly. Notification of religious processions shall not be required.

Article 85.—All nationals shall have the right to form unions or associations, provided their objects are not in contravention of the penal laws. This shall also apply to religious unions and associations. Every union shall be at liberty to acquire legal personality in accordance with the provisions of the civil code. This right shall not be refused to any union on the ground that it has been formed for political, social-political or religious objects.

Article 86.—Every national has complete control over his house which is inviolable. Exceptions are only admissible when the law so provides.

Article 87.—It is the duty of every national to protect the Constitution against unlawful attacks.

Article 88.—All nationals without distinction shall contribute in proportion to their means to the discharge of all public liabilities, in accordance with the provisions of the laws.

Article 89.—All nationals shall be bound according to the provisions of the law to give personal service to the State or the Municipality.

Article 90.—All nationals shall be bound to undertake official duties of an honorary nature in accordance with the provisions of the laws.

II. Public Servants

Article 91.—All nationals of either sex shall be eligible for public appointments, with due regard to their qualifications and previous service.

Immediately after the coming into force of the Constitution of the Free City, special laws shall be passed with regard to the rights and emoluments of officials. The existing organisations representing the officials shall be called in to assist in the preliminary drafting of these laws.

Article 92.—Officials shall be appointed for life, unless otherwise provided by the Constitution or by law. Pensions and allowances to widows and surviving dependents shall be regulated by law. Rights duly acquired by officials shall be inviolable. Officials may have recourse to legal process for recovering their financial claims.

Officials cannot be provisionally removed from office, discharged or transferred, whether temporarily or permanently, to the retired list, or to another post with a lower salary, except in accordance with the conditions and formalities established by law. An opportunity for lodging a complaint and for re-opening the proceedings shall be given in the case of any penalty inflicted in connection with official duties. No entries of an unfavourable nature shall be made in the personal record of an official until the latter has had an opportunity of furnishing an explanation. Every official shall be allowed to see his own record.

Article 93.—Officials are servants of the community and not of a party. They are entitled to freedom of political opinion and freedom of association. They shall not be subjected to any restriction in this respect.

Article 94.—The officials shall have their own representation in accordance with more detailed provisions to be determined by law.

Article 95.—Teachers of both sexes in the public schools are officials directly under the State. This provision does not affect the obligation to maintain the schools.

III. Religion And Religious Associations

Article 96.—There shall be complete freedom of creed and conscience. The undisturbed practice of religion shall be assured, and shall be placed under the protection of the State. Enjoyment of civil and political rights, and admission to public offices shall be independent of religious creed.

No one shall be bound to disclose his religious convictions. The public authorities shall not enquire as to any person's membership of a religious body except where rights and duties are involved on account of such membership, or when a legally instituted statistical census makes such enquiry necessary.

No one shall be compelled to take part in any ecclesiastical act or ceremony.

Where the existing law provides for the taking of an oath according to a religious formula, the oath may also be validly administered if the person to be sworn shall omit the religious formality, and shall declare "I swear". Apart from this, the test of the oath as prescribed by law shall remain unchanged.

Religious bodies in which the use of a solemn declaration is customary in place of the oath shall be entitled to make use of it.

Article 97.—Religious bodies which are public law corporations shall be entitled to collect contributions from their members, based on the rate assessment lists.

Article 98.—The ownership and other rights of religious bodies and associations in their institutions, foundations and other property devoted to purposes of worship, education or social welfare are guaranteed.

Article 99.—In so far as religious services and ministrations are needed in hospitals, prisons and other public institutions, religious bodies shall be admitted for religious purposes, but no coercion shall be exercised.

Article 100.—Sunday and the public holidays recognised by the State shall be protected by law as days of rest and spiritual refreshment.

IV. Education And Schools

Article 101.—The arts and sciences and their teaching shall be free. The State shall afford them protection, and shall be bound to promote their interests in every way.

Article 102.—The whole system of education shall be regulated by a law which shall be drafted with the co-operation of the existing organisations of the teaching profession.

The whole system of education shall be placed under the supervision of the State. School inspection shall be carried out by officials appointed for this purpose only and who have had expert training.

Article 103.—School attendance shall be compulsory for all. To this end are instituted elementary schools covering at least eight years of attendance and also continuation or technical schools for young persons of both sexes up to the end of their eighteenth year.

The maintenance of the State schools shall be the concern of the State; it may associate the municipalities with it in these duties.

Teaching and educational material in the elementary and continuation schools shall be free of charge.

Article 104.—Public education shall be organised on a common undenominational system. Existing schools of other types shall continue. The legitimate wishes of the parents and guardians shall also be taken into consideration as regards any new organisation of such schools, provided that the efficiency of the educational system does not suffer.

The entire system of elementary, secondary and advanced schools is based essentially on the principle of a common school for all. In establishing this system, the guiding principle shall be preparation for the various vocations and professions. In admitting a child into any particular school, consideration shall be given to the aptitude and inclinations of the child, and to the wishes of its parents or guardians, and not to the financial or social position of its parents.

Teaching and material for teaching shall also be provided free of charge in secondary and advanced schools and universities for gifted children of parents with moderate means.

Gifted children of parents with moderate means shall be provided with assistance from public funds to attend advanced schools and universities.

Article 105.—Private schools, if substituted for State schools, shall require State authority and shall be subject to the laws of the State. Such authority may only be granted if the private school is not inferior to the State school in its educational programme and organisation, nor in the scientific training of its teaching staff, and if the tendency to distinguish between pupils according to the means of their parents is not thereby encouraged. Authority shall be refused if the financial and legal position of the staff is insufficiently secured.

No further private preparatory schools shall be established and those which exist shall be abolished.

Compensation shall be awarded whenever existing private schools, including preparatory schools, are closed. Further provisions will be prescribed by law.

Article 106.—Religious instruction shall be part of the regular school curriculum. It shall be given in accordance with the principles of the religious bodies concerned, without prejudice to the State's right of supervision.

The imparting of religious instruction and the holding of services and ecclesiastical ceremonies shall be subject to the teachers' expressed willingness to undertake such duties; the right to withdraw a child from religious instruction, or from participation in religious ceremonies and acts, shall be granted in accordance with the expressed wishes of the person who is responsible for the religious upbringing of the child.

Article 107.—In State school-teaching, care shall be taken not to offend the susceptibilities of those holding different opinions.

Article 108.—Instruction on the duties of citizenship shall form part of the school curriculum. At the end of the period of school attendance every pupil shall be given a copy of the Constitution.

Article 109.—Objects of interest from an artistic, historic, natural and picturesque point of view shall be under the protection and care of the State.

It is the duty of the State to prevent the removal of works of art to foreign countries.

V. Economics

Article 110.—The rights of property shall be secured. Expropriation may only be effected in accordance with the provisions of the law and for the benefit of the whole community, and in return for due compensation; in case of dispute with regard to the amount of compensation, recourse may be had to the law-courts.

Article 111.—The soil and its natural resources will be the subject of special legislation which shall prevent all misuse, and which shall enable every family of the Free City to obtain a permanent abode suitable for residence (homestead) or, in the case of those who have received vocational training, a place in which they can live and work permanently. Large families, those disabled by the War, and those physically affected as the result of their employment, shall be given special consideration in the housing legislation which is to be passed.

The unearned increment, which accrues from the land without any expenditure or labour or capital, shall be used for the benefit of the community.

Article 112.—Transfer of private commercial undertakings to public ownership, in as far as it is required in the public interest, may be effected by special legislation in return for compensation.

Article 113.—Freedom of association with the object of guaranteeing and improving conditions of labour and economic conditions shall be secured to all individuals and to all vocations. Any agreements and measures tending to restrict or obstruct such freedom are illegal.

Article 114.—The State shall draw up a comprehensive Scheme of Insurance in the drafting of which the insured persons shall have a determining voice for the maintenance of health and working efficiency, the protection of motherhood and as a provision against the economic consequences of old age, infirmity and the vicissitudes of life, including unemployment.

Article 115.—Workers and employees may respectively organise separate Works Committees (*Betriebsausschüsse*) elected from amongst themselves. These shall co-operate with the employers on a basis of equality in the regulation of questions concerning wages and labour conditions. Further details will be determined by law.

The organisations set up by either side and their mutual agreements shall be recognised.

In order to secure the social and economic interests of workers and employees and to promote the general economic development of productive forces, a Labour Office shall be established in accordance with the second paragraph of Article 46.

PROVISIONAL AND FINAL ARRANGEMENTS

Article 116.—The Constitution of the German Empire of August 11th, 1919, is hereby revoked. All laws and decrees which are valid in the territory of the Free City of Danzig at the time of the coming into operation of this Constitution shall remain in force in so far as they are not suspended by this Constitution or by legislation.

The Popular Assembly shall be bound, as soon as it meets, immediately to appoint a Committee to examine all decrees which have been issued since January 10th, 1920.

Article 117.—The Constituent Assembly shall, within three months at the latest from the establishment of the Free City, either declare itself to be the first Popular Assembly, with a term of office extending to December 31st, 1923; or it shall fix its dissolution at a date to be determined by itself and shall issue a decree for new elections; in the latter case it shall continue to be the legislative body until the meeting of the first Popular Assembly."

Until the Senate has been constituted, the Council of State in existence at the time of the establishment of the Free City shall continue to act as the provisional government.

The existing City Council and the municipal authorities of the City of Danzig shall remain in office until such time as their duties are taken over by the new City Council and the Senate.

GERMANY

CONSTITUTION OF THE GERMAN REICH OF AUGUST 11, 1919

*Area : 181,466 Sq. miles** *Population : 65,336,000**

INTRODUCTION

After the military collapse of Germany the Kaiser abdicated the throne by his flight from the country on November 9, 1918. To fill the void thus created Friedrich Ebert, the leader of the Social Democratic Party, formed a provisional government and issued a decree for the election of a Constituent National Assembly. The Assembly met for the first time on February 6, 1919, at Weimar, a town with great liberal traditions. It adopted first a preliminary working constitution and elected Ebert as its first President. While its main task was to frame a constitution it also served as a regular legislative body of the Republic. Hugo Preuss, a Liberal professor of Constitutional Law, was the " father of the Constitution " ; the draft constitution prepared by him was adopted by the National Assembly after a great deal of discussion and with a number of modifications. This constitution, popularly known as the Weimar Constitution, came into effect on August 11, 1919, by executive order and without popular ratification. After this, in view of the chaotic conditions of the times, the Constituent Assembly was not dissolved but was continued as a regular Reichstag. The constitution was in full force till Hitler came to power in 1932, and was then carried over into the period of Hitler's dictatorship with the modifications introduced by the Enabling Act of 1933.

The premature death of the Weimar Republic has cast a slur on the intrinsic worth of its constitution. Some have attributed the fall of the Republic to the system of Proportional Representation which is said to have given birth to a large number of doctrinaire, uncompromising parties. Others have pointed accusingly at Article 48 which conferred wide emergency powers on the President of the Republic. The Weimar Constitution was not without its limitations. But to attribute to it all the sufferings that Germany had to endure is quite unjustifiable. In a way the fall of the Republic has an important lesson to teach ; it is that the success of a constitutional experiment depends more on the character of the people and the conditions of the times than merely on the provisions of the Constitution Act. Although the Weimar Constitution is not a living constitution its study is of great value to students of democratic institutions. It has been noted for its idealism and its " logical, well-balanced all-round democratic character ". It has served as a model for, and is a good representative of, the constitutions of European countries after the first World War.

Attention is drawn here to some of the noteworthy features of this Constitution :—

(A) **Nature of Federalism.** In the Weimar Republic we have a type of federation with all the external symbols of federalism without its inner essence. Scholars doubt whether it should be regarded as a " Federal State " or a " Decentralised Unitary State ".

*Area and Population of Germany at the time of the fall of the Weimar Republic (1933).

The following provisions lend weight to its being regarded as a federation.

(*a*) Each State was, under the Weimar Constitution, free to frame its own constitution subject only to the provisions of Article 17. By the latter Article the State constitution had to be republican and had to provide for responsible government and universal suffrage with Proportional Representation.

(*b*) The competency of the Reich and State authorities in their respective spheres was provided for by Article 5.

(*c*) Residuary powers were vested in the States (Article 12).

(*d*) There was a Constitutional Court to settle disputes arising between the Reich and the States, and among the States *inter se* (Article 108).

(*e*) The State had even power to enter into treaties with foreign powers in respect of matters within their jurisdiction, subject however to the approval of the Reich (Article 78, para. 2).

On the other hand, the following provisions strongly emphasise the unitary character of this constitution :

(*a*) Although residuary powers were vested in the States, the subjects over which the Reichstag could legislate included nearly all vital matters affecting the community (Articles 6—11).

(*b*) To remove all doubts regarding the supremacy of the Reich over the States, Article 13, paragraph 1, laid down ; " The law of the Reich overrides the law of a State ".

(*c*) The Reich could take away from or add territory to the States even against their will (Article 18).

(*d*) The President of the Reich had coercive powers over the States in certain events (Article 48).

(B) **Re-grouping of States.** Two points may be noted in respect of Article 18 which dealt with the re-grouping of States and the re-drawing of State boundaries.

(*i*) Territorial readjustments could be made by the Reich with the consent of the people directly affected and in spite of the opposition of the States concerned.

(*ii*) In view of the possible territorial changes the Constitution refrained from enumerating the States composing the Reich.

(C) **Division of Legislative Authority Between the Reich and the States.** The principle followed in this respect was different from that of the other federal systems. There were five legislative lists :

(*i*) Subjects over which the Reich had exclusive legislative jurisdiction (Article 6).

(*ii*) Subjects over which both the Reich and the State Legislatures had jurisdiction (Articles 7 and 8). This was similar to the Concurrent Legislative List of the Government of India Act, 1935.

(*iii*) Subjects over which the Reich had jurisdiction to secure uniform laws (Article 9). This roughly corresponds to Section 94 of the British North America Act.

(*iv*) Subjects over which the Reich had jurisdiction for laying down fundamental principles (Articles 10 and 11).

(*v*) The States had jurisdiction over all matters not covered by the above (Article 12, para. 1).

Regarding the far-reaching powers vested in the Reich, Dr. Jur. Herbert Kraus, Professor of Public and International Law and Political Science of the University of Göttingen, observed in 1932 as follows: "One is actually at a loss, if one attempts to find a single matter which cannot be classed under one of the items of this catalogue (items *i*—*iv* above), and in relation to which the Reich had not passed laws of a more or less complete and exhaustive character, leaving nothing to the activities of the German Lands (States). Matters left under the control of the Lands (States) after this regulation comprise education and instruction, the Land (State) law relating to officials, the organisation of the communes, the care for monuments, agriculture, waterways, and above all, the police. But recently tendencies may be observed which look towards a limitation of the police powers of the Lands (States)". (The Crisis of German Democracy, p. 118.)

(D) **The Position of the Reichsrat in the Constitution.** In theory the Weimar Parliament had only one chamber and not two. Article 68, paragraph 2, clearly laid down: "The laws of the Reich are passed by the Reichstag". But the Reichsrat was endowed with all the powers usually conferred on a Second Chamber. All Government Bills had to receive the consent of the Reichsrat before their introduction into the Reichstag. If the Reichsrat refused its assent the fact had to be intimated to the Reichstag. The Reichsrat could recommend bills to the Reichstag for its consideration even though the Executive Government did not approve of them (Article 69). It had also the power to force a Referendum in respect of bills, both ordinary and constitutional, passed by the Reichstag (Articles 74 and 76). The plenary sessions of the Reichsrat were open to the public (Article 66, para. 3).

The composition of the Reichsrat was, however, such as to make it a very unorthodox type of Senate. Article 63 laid down: "The States are represented in the Reichsrat by members of their governments." In practice the members of the Reichsrat were permanent officials holding their seats irrespective of political changes and acting on the instructions of their governments. As a result the Reichsrat was as closely connected with the Executive Government as with the Reichstag.

(E) **Organisation and Procedure of the Reichstag.** In the organisation and procedure of the Reichstag two uncommon provisions may be noticed. (*i*) The States were entitled to send delegates to the meetings of the Reichstag to present the views of the State Governments (Article 33, para. 2). (*ii*) The constitution provided for two Standing Committees, the Foreign Committee and the "Interval Committee". The latter was formed to protect the rights of popular representatives against the government, during the period between sessions and after the conclusion of an election season or after the dissolution of the Reichstag and until a new Reichstag opened (Article 35).

(F) **The Executive Government.** We have here, as in the later Constitution of Ireland, a curious blend of the American Presidential form of government and the British Parliamentary system of responsible government. Responsible government was secured by Articles 50 and 54. But, the President, the head of the State, was elected by the whole German people (Article 41, para. 1). The tenure of his office was fixed at 7 years (Article 43, para. 1). He was vested with special emergency powers under Article 48 for the maintenance of public security and order. "The character and final significance of the German President is, in my opinion," Dr. Jur. Herbert Kraus observed, "to be the highest equalising factor of the state machinery in the German Reich." (The Crisis of German Democracy, p. 172.)

Article 48 deserves particular study as it is regarded by some to have been a charter of dictatorship conferred on the President.

(G) **Supreme (Constitutional) Court.** A special court was established by Article 108 to act as the guardian of the constitution. Its functions were as follows :—

(i) Trial of the Reich President, the Reich Chancellor and the Reich Ministers when impeached (Article 59) ;
(*ii*) Arbitration of constitutional disputes arising within a State, if there was no State Tribunal to adjudicate such disputes ;
(*iii*) Arbitration of disputes affected with public interest when they arose between different States ;
(*iv*) Arbitration of disputes arising between the Reich Government and the States. (Article 15, para. 3 and Article 19, para. 1).

(H) **The Reich Economic Council.** The idea of "Soviets" found expression in Article 165 which provided for Workers' Councils and Economic Councils, the latter representative of all vocational groups and of both the employers and the employees. The Reich Economic Council was intended to be an organ of expert opinion on all economic questions. All bills of fundamental importance dealing with social and economic questions were to be referred to it by the Government. It had also power to recommend bills to the Reichstag. In actual working, however, it is said that this body did not make itself felt.

(I) **Germany and the outside World.** There is probably no parallel in the constitutions of other countries to Article 4 which laid down : "The generally recognised rules of International Law are valid as binding constituent parts of the Law of the German Reich".

Article 78, paragraphs 2, 3 and 4 are also of great interest. According to them the German States had power to conclude treaties with foreign powers in respect of matters within their competence, subject however to the consent of the Reich Government. Further, in respect of matters affecting their boundaries or economic interests, the States had to be consulted and their consent taken by the Reich before it entered into treaties with foreign powers.

(J) **Fundamental Rights.** The Weimar Fundamental Rights are probably the most interesting and instructive part of the whole constitution and they form a striking contrast to the fundamental rights embodied in the constitution of the U. S. A. The following points may be noted in respect of them.

(*i*) The Weimar Fundamental Rights comprised three different types :
(*a*) A statement of the ideals of the community. For example, Article 151, paragraph 1, laid down : "The organisation of economic life must correspond to the principles of justice, and be designed to ensure for all a life worthy of a human being. Within these limits the economic freedom of the individual must be guaranteed".
(*b*) A specific direction to the Legislature. For example, Article 157, paragraph 2, provided : "The Reich will frame a uniform labour code."
(*c*) Provisions which conferred positive rights on the citizen enforceable in courts of law. For example, Article 117 provided : "The secrecy of correspondence and of the postal, telegraph and telephone services is inviolable. Exceptions may be permitted only by law of the Reich." No attempt was made to differentiate between the three types and they were indiscriminately

mixed up in the constitutional document. This feature of the Weimar Fundamental Rights has been subjected to severe criticism from all quarters. Some have called the section embodying them a " treatise on political philosophy" and others as an " interfactional party programme ". It is probably this experience that made the framers of the Irish Constitution insert a separate section entitled " Directive Principles of Social Policy ", the provisions of this section being directions to the Legislature and not cognisable by courts of law. [Article 45 of the Constitution of Ireland (Eire).]

(*ii*) There is another important difference between the fundamental rights embodied in the constitution of the U. S. A., and in the Weimar Constitution. The former confer certain positive rights on the citizens which even the Congress cannot take away, and the Supreme Court ensures the enjoyment of those rights. The American system, it was feared, tended to weaken executive and legislative authority. To overcome this defect, the Weimar Constitution conferred most of the rights " subject to the provisions of the law." In effect this meant that the citizens could enjoy only such rights as the legislature permitted from time to time. This cut at the very root of the principle of Fundamental Rights. How to secure for the citizen a free enjoyment of fundamental Rights without weakening unduly executive and legislative authority is a problem yet unsolved.

(*iii*) The enunciation of the duties of citizenship was a significant departure.

(*iv*) New rights came to be recognised :

(1) Economic Rights (Part II, Section V) ;

(2) Rights of groups and communes (Article 127) ; and

(3) Rights of public officials (Articles 129—131).

(K) **Constitutional Amendment.** Article 76 provided for constitutional amendment. In the absence of a specific provision similar to Article 46 (3) of the Irish Constitution, which requires every amendment to be embodied in a bill expressed to be " An Act to amend the Constitution ", the Practice of constitutional amendment without changing the text of the constitution prevailed to a great extent. When a clause of the Constitution stood in the way of a legislative proposal, it was passed by the qualified majority prescribed for constitutional amendments, and no corresponding changes were made in the text of the constitution. It became, therefore, difficult even for lawyers to say what the constitution of the country was at a given time.

CONSTITUTION
OF
THE GERMAN REICH OF AUGUST 11TH 1919

The German people, united in every branch and inspired by the determination to renew and establish its realm in freedom and justice, to be of service to the cause of peace at home and abroad, and to further social progress, has given itself this Constitution.

PART I

ORGANISATION AND FUNCTIONS OF THE REICH

SECTION I

THE REICH AND THE STATES

Article 1.—The German Reich is a Republic.

All State authority emanates from the people.

Article 2.—The territory of the Reich consists of the territories of the German States. Other territories may, by a law of the Reich, be incorporated in the Reich if their population so desires in virtue of the right of self-determination.

Article 3.—The colours of the Reich are black, red and gold. The commercial flag is black, white and red, with the colours of the Reich in the upper inside corner.

Article 4.—The generally recognised rules of International Law are valid as binding constituent parts of the law of the German Reich.

Article 5.—State authority is exercised in the affairs of the Reich through the institutions of the Reich on the basis of the Constitution of the Reich and in State affairs by the institutions of the States on the basis of the Constitutions of the States.

Article 6.—The Reich has exclusive legislative power as regards:—

1.—Foreign relations;

2.—Colonial affairs;

3.—Nationality, freedom of domicile, immigration and emigration, and extradition;

4.—Military organisation;

5.—The monetary system;

6.—Customs, as well as uniformity in the sphere of customs and trade, and freedom of commercial intercourse;

7.—Posts and telegraphs, including telephones.

Article 7.—The Reich has legislative power as regards:—

1.—Civic rights;

2.—Penal law;

3.—Judicial procedure, including the carrying out of sentences, as well as official co-operation between public authorities;

4.—Passports and the police supervision of foreigners;

5.—Poor-relief and vagrancy;

6.—The Press, associations and assemblies;

7.—Population questions and the care of motherhood, infants, children and young persons;

8.—Public health and veterinary matters, and the protection of plants against disease and pests;

9.—Labour laws, the insurance and protection of workers and employees, together with Labour Bureaux;

10.—The institution of vocational representative bodies for the territory of the Reich;

11.—The care of persons who took part in the war, and of their dependents;

12.—The law of expropriation;

13.—The formation of associations for dealing with natural resources and economic undertakings, as well as the production, preparation, distribution and determination of prices of economic commodities for common use;

14.—Commerce, the system of weights and measures, the issue of paper money, banking affairs and the system of exchange;

15.—Traffic in foodstuffs and luxuries as well as in articles of daily necessity;

16.—Industry and mining;

17.—Insurance matters;

18.—Navigation, deep sea and coastal fishery;

19.—Railways, inland navigation, motor traffic by land, water and air, as well as the construction of high-roads, so far as this is concerned with general traffic and home defence;

20.—Theatres and cinemas.

Article 8.—Further, the Reich has legislative power as regards taxes and other revenues in so far as they are appropriated wholly or in part to its purposes. Should the Reich appropriate taxes or other revenues hitherto appertaining to the various States, it must take into consideration the maintenance of the vitality of those States.

Article 9.—Where there is need for the issue of uniform regulations, the Reich has legislative power as regards:—

1.—Sanitary administration;

2.—The maintenance of public order and security.

Article 10.—The Reich may by legislation lay down fundamental principles governing:—

1.—The rights and duties of religious associations;

2.—Education, including higher education and scientific literature;

3.—The law as to the conditions of service of officials of all public bodies;

4.—The land laws, the distribution of land, land settlement and small holdings, the tenure of landed property;

5.—Burial of the dead.

Article 11.—The Reich may by legislation lay down fundamental principles governing the admissibility and mode of collection of State taxes, in so far as they are requisite either for the purpose of preventing:—

1.—Loss of revenue or injury to the commercial relations of the Reich;

2.—Double taxation;

3.—Charges for the use of public means of communication and their accessories, which are excessive and constitute a hindrance to traffic;

4.—Assessments which are prejudicial to imported goods, as opposed to home products, in dealings between the separate States and parts of a State; or

5.—Bounties on exportation; or for the purpose of protecting important social interests.

Article 12.—So long and in so far as the Reich does not make use of its legislative power, the States retain that power for themselves. This does not apply to the exclusive legislative power of the Reich.

The Government of the Reich has the right of veto in respect of any laws of a State which refer to subjects included in Article 7, Number 13, in so far as the welfare of the Reich as a whole is thereby affected.

Article 13.—The law of the Reich overrides the law of a State.

Where there exists any doubt or difference of opinion as to whether any provision of State law is compatible with the law of the Reich, an appeal may be made by the competent Reich or State authorities to the decision of the Supreme Court of the Reich in accordance with the more detailed provisions to be prescribed by a law of the Reich.

Article 14.—Laws of the Reich are carried into execution by the State authorities, unless these laws decree otherwise.

Article 15.—The Government of the Reich exercises control in those affairs in which the Reich has legislative power.

In so far as laws of the Reich are carried into execution by State authorities, the Government of the Reich may issue general instructions. For the purpose of supervision of the execution of laws of the Reich, the Government is empowered to despatch Commissioners to the State central authorities, and, with their consent, to the subordinate authorities.

It is the duty of the State Governments, at the request of the Government of the Reich, to remedy defects observed in the execution of laws of the Reich. In case of differences of opinion, both the Government of the Reich and the State Government may appeal to the decision of the Supreme Court, save where appeal to another Court has been prescribed by law of the Reich.

Article 16.—Officials entrusted with the direct administration of the Reich in the various States shall, as a rule, be citizens of the State in question. Officials, employees and workmen of the administration of the Reich shall, if they desire it, be employed as far as possible in their native districts, unless considerations of training or the exigencies of the service are opposed to this course.

Article 17.—Each State must have a republican constitution. The representatives of the people must be elected by the universal, equal, direct and secret suffrage of all men and women of the German Reich, upon the principles of proportional representation. The State Government must enjoy the confidence of the people's representatives.

The principles governing elections of the people's representatives apply also to elections to local bodies. By a State law the qualification for a vote may, however, be declared conditional upon a year's residence in the district.

Article 18.—The organisation of the Reich into States shall serve the highest economic and cultural interests of the people with all due consideration for the will of the population concerned. Alteration of the territory of the States, and the formation of new States within the Reich, shall be effected by means of a law of the Reich amending the Constitution.

Where the States concerned give their direct consent, a simple law of the Reich suffices.

A simple law of the Reich suffices also in a case where the consent of one of the States concerned has not been obtained, but where an alteration of territory or reorganisation is demanded by the will of the population and required by the paramount interests of the Reich.

The will of the population is ascertained by a plebiscite. The Government of the Reich orders the taking of a plebiscite when demanded by one-third of those inhabitants of the territory to be separated who are entitled to vote for the Reichstag.

For the determination of an alteration or reorganisation of territory, the proportion of votes required is three-fifths of the number cast; or at least, a majority of the votes of persons qualified. Even when it is a question only of the separation of a portion of a Prussian administrative area (Regierungsbezirk), a Bavarian district (Kreis) or of a corresponding administrative district (Verwaltungsbezirk) in other States, the will of the population of the whole district in question shall be ascertained. Should the area of the territory to be separated and that of the whole district (Bezirk) not coincide, the will of the population of the former may, by means of a special law of the Reich, be declared sufficient.

The consent of the population having been obtained, the Government of the Reich shall lay before the Reichstag a law in accordance with the decision.

In the case of union or separation, should any dispute arise on the question of arrangements as to property, the decision on such points shall be given, upon an application from one party, by the Supreme Court of the German Reich.

Article 19.—Constitutional controversies within a State in which no Court exists for their settlement, and disputes, not of a private nature,

between different States or between the Reich and a State, are decided upon an application from one of the parties, by the Supreme Court of the German Reich, unless another Court of the Reich is competent.

The President of the Reich carries out the decision of the Supreme Court.

Section II

The Reichstag

Article 20.—The Reichstag is composed of the Deputies of the German people.

Article 21.—The Deputies are representatives of the whole people. They are subject to their conscience only, and are not bound by any instructions.

Article 22.—The Deputies are elected by the universal, equal, direct and secret suffrage of all men and women above the age of twenty, upon the principles of proportional representation. Elections must take place on a Sunday, or a public holiday.

Details are determined by the election law of the Reich.

Article 23.—The Reichstag is elected for four years. New elections must take place not later than sixty days after the expiration of its term of office.

The Reichstag must hold its first meeting not less than thirty days after the election.

Article 24.—The Reichstag assembles annually on the first Wednesday in November at the seat of the Government of the Reich. The President of the Reichstag must summon it earlier if requested by the President of the Reich or by at least one-third of the members.

The Reichstag determines the conclusion of the session and the day of re-assembly.

Article 25.—The President of the Reich may dissolve the Reichstag, but only once for any one reason.

The new elections must take place not later than sixty days after the dissolution.

Article 26.—The Reichstag elects its Chairman, Deputy-Chairman and Secretaries. It determines its own rules of procedure.

Article 27.—Between two sessions or elective periods the Chairman and Vice-Chairman of the last session continue to discharge their duties.

Article 28.—The Chairman exercises domestic and police authority within the Reichstag buildings. He is responsible for the administration of the House; regulates receipts and expenditure within the limits fixed by the Budget of the Reich, and represents the Reich in all the legal business and legal proceedings connected with his administration.

Article 29.—The Reichstag conducts its business in public. Upon the motion of fifty members, supported by a two-thirds majority, the public may be excluded.

Article 30.—Accurate reports of deliberations in the public sessions of the Reichstag, of a State Diet, or of their Committees are privileged.

Article 31.—A Court of Inquiry into Elections is established in connection with the Reichstag. It also decides the question as to whether a Deputy has forfeited his membership.

The Court consists of members of the Reichstag, chosen by it for the electoral period, and of members of the Administrative Court of the Reich, appointed by the President of the Reich, upon the motion of the presiding officer of that Court.

The Court gives judgment after public *viva voce* investigation by three members of the Reichstag and two judicial members.

Apart from the investigations before this Court, the proceedings are conducted by an official of the Reich, appointed by the President of the Reich. Further provisions as to procedure are determined by the Court.

Article 32.—For a decision of the Reichstag, a simple majority of votes is required, where no other proportion of votes is prescribed by the Constitution. The rules of procedure may permit exceptions in the case of elections to be undertaken by the Reichstag.

The number required to form a quorum is regulated by the rules of procedure.

Article 33.—The Reichstag and its Committees may require the attendance of the Chancellor of the Reich and of any Ministers of the Reich.

The Chancellor and the Ministers of the Reich, and officials appointed by them, have access to the sittings of the Reichstag and its Committees. The States are entitled to send plenipotentiaries to these sittings, for the purpose of stating the point of view of their Government with regard to the subject under discussion.

At their request, Government representatives must be heard during the debate, and the representatives of the Government of the Reich must be heard without regard to the Order of the Day.

Such representatives are subject to the authority of the Chair.

Article 34.—The Reichstag has the right to appoint Committees of Inquiry and must do so on the motion of one-fifth of its members. These Committees examine in open session such evidence as may be considered necessary by the Committee or by the movers of the motion for their appointment. The public may be excluded by a resolution of the Committee of Inquiry supported by a two-thirds majority. The rules of procedure prescribe the procedure of the Committee and determine the number of its members.

The Courts and administrative authorities are bound to comply with the request of such Committees for the production of evidence; the official documents of the authorities must be laid before them if desired. The regulations as to criminal procedure are applicable in principle to the investigations of the Committees and of the authorities applied to by them, but the privacy of correspondence and of postal, telegraphic and telephonic communications must be respected.

Article 35.—The Reichstag appoints a Standing Committee for Foreign Affairs which may also continue its work beyond the sessions of the Reichstag and after the expiration of the term of office or the dissolution of the Reichstag, until the assembly of the new Reichstag. The sittings of this Committee are not public, unless so decided by the Committee upon a two-thirds majority.

The Reichstag also appoints a Standing Committee for the Protection of the Rights of the Representatives of the People as against the Government

of the Reich, for the period when the Reichstag is not in session, and after the expiration of its term of office.

These Committees have the same rights as Committees of Inquiry.

Article 36.—No judicial or administrative proceedings may be taken at any time against any member of the Reichstag or of any State Diet, on account of any vote he has given, or of any utterances made in the exercise of his functions, nor may he be called to account in any other way outside the House.

Article 37.—No member of the Reichstag or of a State Diet may be summoned for examination or arrested for any action involving criminal proceedings during the period of a session, without the consent of the House of which he is a member, unless the member be apprehended at the time of the act or, at the latest, in the course of the following day.

The same consent is requisite for any other limitation of personal liberty which might hinder a Deputy in the exercise of his functions.

Any criminal proceedings against a Member of the Reichstag or of a State Diet and any arrest or other limitation of personal freedom shall, upon demand of the House of which he is a member, be suspended for the duration of the session.

Article 38.—Members of the Reichstag or a State Diet are entitled to refuse evidence with regard to persons who have confided any facts to them in their capacity as Deputies, or to whom they, in the exercise of their functions as Deputies, have made confidential statements; they may likewise refuse to give evidence as to such facts. With regard also to the sequestration of documents, they are in the position of persons who have a legal right to refuse evidence.

No search or sequestration may be carried out upon the premises of the Reichstag or of a State Diet without the consent of the Chairman.

Article 39.—Officials and members of the Military Forces do not require leave of absence in order to exercise their functions as Members of the Reichstag or of a State Diet.

If they are candidates for a seat in these bodies, they shall be granted the requisite leave in order to prepare for the election.

Article 40.—Members of the Reichstag are entitled to travel free on all German railways, and to receive allowances as determined by a law of the Reich.

Section III

The President of the Reich and the Government of the Reich

Article 41.—The President of the Reich is elected by the whole German people.

Every German who has completed his thirty-fifth year is eligible.

Details shall be determined by a law of the Reich.

Article 42.—The President of the Reich when entering upon his office takes the following oath before the Reichstag:—

"I swear to dedicate my powers to the welfare of the German people, to augment their prosperity, to guard them from injury, to maintain

the Constitution and the laws of the Reich, to fulfil my duties conscientiously, and to do justice to every man."

The addition of a religious asseveration is permissible.

Article 43.—The President of the Reich holds office for seven years. Re-election is permissible.

The President of the Reich may, upon the motion of the Reichstag be removed from office before the expiration of his term by the vote of the people. The resolution of the Reichstag requires to be carried by a two-thirds majority. Upon the adoption of such a resolution, the President of the Reich is prevented from the further exercise of his office. Refusal to remove him from office, expressed by the vote of the people, is equivalent to re-election, and entails the dissolution of the Reichstag.

Penal proceedings may not be taken against the President of the Reich without the consent of the Reichstag.

Article 44.—The President of the Reich may not at the same time be a member of the Reichstag.

Article 45.—The President of the Reich represents the Reich in international relations. He concludes alliances and other treaties with Foreign Powers in the name of the Reich. He accredits and receives ambassadors.

The declaration of war and the conclusion of peace are dependent upon the passing of a law of the Reich.

Alliances and treaties, with foreign States which refer to matters in which the Reich has legislative power require the consent of the Reichstag.

Article 46.—The President of the Reich appoints and dismisses officials and officers of the Reich, where no other system is determined by law. He may delegate his right of appointment and dismissal to other authorities.

Article 47.—The President of the Reich has Supreme Command over all the armed forces of the Reich.

Article 48.—In the event of a State not fulfilling the duties imposed on it by the Constitution or the laws of the Reich, the President of the Reich may make use of the armed forces to compel it to do so.

Where public security and order are seriously disturbed or endangered within the Reich, the President of the Reich may take the measures necessary for their restoration, intervening in case of need with the help of armed forces. For this purpose he is permitted, for the time being, to abrogate either wholly or partially the fundamental rights laid down in Articles 114, 115, 117, 118, 123, 124 and 153.

The President of the Reich must, without delay, inform the Reichstag of any measures taken in accordance with paragraph 1 or 2 of this Article. Such measures shall be abrogated upon the demand of the Reichstag.

Where there is danger in delay, the State Government may take provisional measures of the kind indicated in paragraph 2, for its own territory. Such measures shall be abrogated upon the demand of the President of the Reich or the Reichstag.

Details are to be determined by a law of the Reich.

Article 49.—The President of the Reich exercises the right of pardon for the Reich.

The grant of amnesty by the Reich requires to be effected by a law of the Reich.

Article 50.—All orders and decrees of the President of the Reich, including those relating to the armed forces, require for their validity the countersignature of the Chancellor or the competent Minister of the Reich. The countersignature entails the undertaking of responsibility.

Article 51.—In case of any disability the President of the Reich is represented in the first instance by the Chancellor of the Reich. Should it be probable that the disability might continue for some time, his representative shall be appointed by a law of the Reich.

The same applies to the case of premature vacancy in the office of President pending the carrying out of the new election.

Article 52.—The Government of the Reich consists of the Chancellor of the Reich and the Ministers of the Reich.

Article 53.—The President of the Reich appoints and dismisses the Chancellor of the Reich and, on the latter's recommendation, the Ministers of the Reich.

Article 54.—The Chancellor of the Reich and the Ministers of the Reich require the confidence of the Reichstag in the administration of their office. Any one of them must resign should the confidence of the Reichstag be withdrawn by an express resolution.

Article 55.—The Chancellor of the Reich presides over the Government of the Reich and directs its business, according to rules of procedure drawn up by the Government of the Reich and approved by the President of the Reich.

Article 56.—The Chancellor of the Reich determines the main lines of policy, for which he is responsible to the Reichstag. Within these main lines each Minister of the Reich directs independently the department entrusted to him, for which he is personally responsible to the Reichstag.

Article 57.—The Ministers of the Reich must submit to the Government for consideration and decision the drafts of all Bills and other matters for which such a course is prescribed by the Constitution or by law, as well as differences of opinion upon questions affecting the sphere of action of more than one Minister of the Reich.

Article 58.—The Government of the Reich comes to a decision by a majority of votes. In case of an equality of votes the presiding member gives the casting vote.

Article 59.—The Reichstag may arraign the President of the Reich, the Chancellor and the Ministers before the Supreme Court of the German Reich for culpable violation of the Constitution or of a law of the Reich. The motion for the arraignment must be signed by at least one hundred members of the Reichstag, and requires the assent of the majority prescribed for alterations of the Constitution. Details are to be regulated by the law of the Reich as to the Supreme Court.

Section IV

The Reichsrat

Article 60.—A Reichsrat is formed in order to represent the German States in the legislation and administration of the Reich.

Article 61.—In the Reichsrat, each State has at least one vote. In the larger States, one vote is assigned for each million inhabitants. Any surplus not less than the total population of the smallest State is reckoned as a full million. No State may be represented by more than two-fifths of all the votes.

*German Austria will, after her union with the German Reich, acquire the right of participation in the Reichsrat, with the number of votes corresponding to her population. Until that time, the representatives of German Austria have an advisory voice.

The number of votes shall be re-adjusted by the Reichsrat after each general census of the population.

Article 62.—In Committees appointed by the Reichsrat from its members no State shall have more than one vote.

Article 63.—The States are represented in the Reichsrat by members of their Governments. However, one-half of the Prussian votes shall be assigned, according to a State law, to representatives of Prussian provincial administrations.

The States are entitled to send to the Reichsrat as many representatives as they have votes.

Article 64.—The Government of the Reich must convene the Reichsrat upon the demand of one-third of its members.

Article 65.—The Reichsrat and its Committees are presided over by a member of the Government of the Reich. The members of the latter are entitled, and, if requested, are bound, to take part in the deliberations of the Reichsrat and its Committees. They must be heard upon their demand at any time during the debate.

Article 66.—The Government of the Reich and each member of the Reichsrat are authorised to lay proposals before the Reichsrat.

The Reichsrat regulates the conduct of its business by rules of procedure.

The plenary sessions of the Reichsrat are public. The public may be excluded during the discussion of certain subjects, in accordance with the rules of procedure.

For a decision a simple majority of the votes is required.

Article 67.—The Reichsrat shall be kept informed by the Ministries of the Reich of the progress of affairs in the Reich. Upon important subjects the Committees of the Reichsrat concerned shall be called into consultation by the Ministries of the Reich.

Section V

Legislation of the Reich

Article 68.—Bills are introduced by the Government of the Reich or by members of the Reichstag.

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* According to Article 80 of the Treaty of Peace between the Allied and Associated Powers and Germany, signed at Versailles, June 28th, 1919, "Germany acknowledges and will respect strictly the independence of Austria, within the frontiers which may be fixed in a Treaty between that State and the Principal Allied and Associated Powers; she agrees that this independence shall be inalienable, except with the consent of the Council of the League of Nations." A declaration that all provisions of this Constitution which are in contradiction with the terms of the Treaty of Peace are null and void was signed on September 22nd, 1919, at Paris, by the acting Head of the German Delegation.

The laws of the Reich are passed by the Reichstag.

Article 69.—The introduction of Bills by the Government of the Reich requires the consent of the Reichsrat. Should the Government and the Reichsrat not be in agreement, the former may, nevertheless, introduce the Bill; but, in doing so, must state the divergent view of the Reichsrat.

Should the Reichsrat adopt a Bill to which the Government does not agree, the latter must introduce the Bill in the Reichstag with a statement of its own point of view.

Article 70.—The President of the Reich shall prepare for publication the laws which have been adopted in accordance with the Constitution, and, within the period of one month, shall promulgate them in the Journal of Laws of the Reich (*Reichsgesetzblatt*).

Article 71.—Laws of the Reich come into force, unless otherwise provided therein, fourteen days from the day on which the Journal of Laws of the Reich is published in the capital.

Article 72.—The promulgation of a law of the Reich shall be deferred for two months, if one-third of the Reichstag so demands. Laws which the Reichstag and the Reichsrat declare to be urgent may, however, be promulgated by the President of the Reich, notwithstanding such a demand.

Article 73.—A law passed by the Reichstag shall, before its promulgation, be submitted to the decision of the people, if the President of the Reich so determines within one month.

A law the promulgation of which is deferred on the motion of at least one third of the Reichstag, shall be submitted to the decision of the people, if desired by one-twentieth of those entitled to the franchise.

There may also be an appeal to the decision of the people if one-tenth of those entitled to the franchise initiate a request for the introduction of a Bill. This popular initiative must be based on a complete draft of the Bill. It shall be submitted to the Reichstag by the Government, accompanied by a statement of the Government's attitude in regard to it. The appeal to the decision of the people shall not take place if the proposed Bill is accepted without amendment by the Reichstag.

The President of the Reich is alone entitled to institute an appeal to the decision of the people on the Budget and on laws dealing with taxation and decrees as to payments to employees.

The procedure in connection with the appeal to and initiative by the people is to be regulated by a law of the Reich.

Article 74.—The Reichsrat may enter an objection against a law passed by the Reichstag.

This objection must be lodged with the Government of the Reich within two weeks after the final vote in the Reichstag, and must be supported by reasons, presented at latest within a further two weeks.

When an objection is entered, the law shall be brought before the Reichstag for further consideration. Should the Reichstag and the Reichsrat not arrive at an agreement, the President of the Reich may, within three months, order an appeal to the people upon the subject in dispute. Should the President not make use of this right, the law shall not come into operation. Should the Reichstag decide by a two-thirds majority against the objection of the Reichsrat, the President must, within three months, either

promulgate the law in the form approved by the Reichstag or order an appeal to the people.

Article 75.—A decision of the Reichstag can be annulled by the decision of the people only when a majority of those entitled to the franchise take part in the vote.

Article 76.—The Constitution may be amended by legislation. But decisions of the Reichstag as to such amendments come into effect only if two-thirds of the legal total of members be present, and if at least two-thirds of those present have given their consent. Decisions of the Reichsrat in favour of amendments of the Constitution also require a majority of two-thirds of the votes cast. Where an amendment of the Constitution is decided by an appeal to the people as the result of a Popular Initiative, the consent of the majority of the voters is necessary.

Should the Reichstag have decided upon an alteration of the Constitution in spite of the objection of the Reichsrat, the President of the Reich shall not promulgate the law if the Reichsrat, within two weeks, demands an appeal to the people.

Article 77.—The Government of the Reich issues the general administrative instructions necessary for the execution of the laws of the Reich, unless otherwise provided by law. For this purpose, the Government needs the assent of the Reichsrat when the execution of the law of the Reich is the business of the Authorities of the States.

Section VI

Administration of the Reich

Article 78.—The conduct of foreign affairs is the exclusive concern of the Reich.

In affairs regulated by State legislation, the States may conclude agreements with foreign States. These agreements require the consent of the Reich.

Conventions with foreign States as to the alteration of the frontiers of the Reich are concluded by the Reich, with the consent of the State concerned. Alterations in the frontier may be effected only by a law of the Reich, except in the case of a simple rectification of the borders of uninhabited portions of a district.

In order to guarantee representation of the interests of individual States arising from their special economic relations with foreign States or their proximity thereto, the Reich undertakes the requisite arrangements, and measures in agreement with the State concerned.

Article 79.—The defence of the Reich is a matter for action by the Reich. The military organisation of the German people is regulated uniformly by means of a law of the Reich, regard being had to the individual conditions of each State.

Article 80.—Colonial affairs are exclusively the business of the Reich.

Article 81.—All German merchant shipping constitutes a united commercial fleet.

Article 82.—Germany forms one customs and commercial district enclosed by one common customs frontier.

The customs frontier coincides with the foreign frontier. To seaward it is formed by the shore of the mainland, with the islands belonging to the territory of the Reich. On the sea or on other bodies of the water, deviations may be made in the course of the Customs frontier.

The territories or portions of the territories of a foreign State may be included in the Customs district by State treaties or by agreement.

In cases of special necessity certain areas may be excluded from the Customs district. In the case of free ports, exclusion can be set aside only by means of a law amending the Constitution.

Places excluded from the Customs district may join a foreign customs district by means of a State treaty or by agreement.

All natural products as well as products of manufacture and industry in which there is free trade within the Reich, may be imported, exported or sent in through transit across the frontiers of the States and local authorities. Exceptions may be allowed by a law of the Reich.

Article 83.—Customs and duties upon articles of consumption are administered by authorities of the Reich.

In the administration of taxes by the authorities of the Reich arrangements shall be made so as to ensure to the various States the protection of special State interests within the domain of agriculture, trade, manufacture and industry.

Article 84.—The Government of the Reich regulates by law :—

1.—The organisation of the administration of taxes in the States, so far as is required for the purpose of uniform and equal execution of the laws of the Reich on taxation ;

2.—The organisation and powers of the authorities entrusted with the superintendence of the execution of the laws of the Reich on taxation ;

3.—The settlement of accounts with the States ;

4.—The reimbursement of expenses of administration in the execution of the laws of the Reich on taxation.

Article 85.—All receipts and expenditures of the Reich must be estimated for each financial year and be shown in the Budget.

The Budget must be passed into law before the opening of the financial year.

Items of expenditure shall normally be granted for one year ; in special cases, they may be granted for a longer period. In general, provisions in the Budget law of the Reich, which extend beyond the financial year or do not refer to the receipts and expenditure of the Reich or their administration, are inadmissible.

The Reichstag may neither increase items of expenditure, nor include new ones, in the draft of the Budget, without the consent of the Reichsrat.

Failing the consent of the Reichsrat the provisions of Article 74 apply.

Article 86.—In order to secure discharge of the responsibility of the Government of the Reich, the Minister of Finance for the Reich shall, in the following financial year, submit to the Reichstag and the Reichsrat an account of the expenditure out of all revenues of the Reich. The auditing of accounts shall be regulated by law of the Reich.

Article 87.—Funds may be obtained by way of loan in case of special necessity, and, as a rule, only for expenditure on productive undertakings. Such a proceeding, as well as the giving of a security on behalf of the Reich, may be effected only upon the authority of a law of the Reich.

Article 88.—The postal and telegraph services, together with the telephone services, are exclusively the affairs of the Reich.

Postage stamps are uniform for the whole Reich.

The Government of the Reich, with the consent of the Reichsrat, issues the instructions which determine the conditions and charges for the use of the means of communication. With the consent of the Reichsrat, the Government may transfer these powers to the Minister of Posts.

For the purpose of consultative co-operation in matters connected with postal, telegraphic and telephonic communications and the charges therefor, the Government of the Reich shall, with the consent of the Reichsrat, establish an Advisory Council.

Treaties referring to means of communication with foreign countries are concluded only by the Government of the Reich.

Article 89.—It is the duty of the Government of the Reich to assume ownership of the railways serving for general traffic, and to manage them on a uniform traffic system.

The rights of States to acquire private railways shall be transferred upon demand to the Government of the Reich.

Article 90.—With the transfer of the railways, the Reich assumes the power of expropriation and the sovereign rights of the States as regards the railway service. The Supreme Court decides, in case of dispute, as to the extent of such rights.

Article 91.—The Government of the Reich, with the consent of the Reichsrat, issues orders for regulating the construction, management and working of the railways. With the consent of the Richsrat, the Government may delegate these powers to the competent Minister of the Reich.

Article 92.—Notwithstanding the incorporation of their budget and accounts with the general Budget and accounts of the Reich, the railways of the Reich shall be administered as an independent, economic undertaking responsible for defraying its own expenses, inclusive of interest and a sinking-fund for the railway debt, and also for accumulating a reserve. The amount of the sinking-fund and reserve, as well as the purposes to which the reserve is to be applied, shall be regulated by means of a special law.

Article 93.—For the purpose of consultative co-operation in matters concerning railway traffic and rates, the Government of the Reich shall, with the consent of the Reichsrat, establish Advisory Councils for the Railways of the Reich.

Article 94.—Where the Government of the Reich has taken over in a certain district the railways serving for general traffic, new railways serving the same purpose may be constructed within this district only by the Reich, or with its consent. Should the construction of new or the alteration of existing railways by the Reich affect the sphere of activity of the police authorities of a State, the Railway Administration of the Reich must consult the State Authorities before coming to a decision.

Where the Reich has not yet taken over the railways, it may, on the authority of a law of the Reich, construct at its own expense, or permit another body to construct (subject, when necessary, to reservation of the right of expropriation), railways considered necessary for general traffic or for the defence of the territory, even without the consent of the States through the territory of which the railway is to run, but without prejudice to the sovereign rights of the States.

Every railway system must permit other railways to make junctions with it at the cost of the latter.

Article 95.—Railways for general traffic, which are not under the administration of the Reich, are subject to its supervision.

Railways subject to such supervision shall be constructed and equipped upon the principles laid down by the Reich. They must be maintained in good working order, and developed in accordance with the requirements of traffic. Both passenger and goods traffic must be attended to and organised in accordance with their needs.

In the supervision of rates, uniform and low railway rates are to be aimed at.

Article 96.—All railways, including those not serving for general traffic, must comply with the requirements of the Reich as to the use of railways for the purpose of State defence.

Article 97.—It is the duty of the Reich to acquire and administer waterways serving for general traffic.

After this transfer, waterways serving for general traffic may be constructed or extended only by or with the consent of the Reich.

In the administration, extension or construction of waterways, the requirements of agriculture and the water supply must be safeguarded, in agreement with the States. Their improvement must also be taken into consideration.

Every waterways administration must permit junctions with its system to be made by other inland waterways, at the expense of the latter. The same obligation extends to the establishment of a connection between inland waterways and railways.

With the transfer of the waterways, the Reich assumes authority as to expropriation, and the fixing of rates, as well as the control of river and shiping police.

The business of the River Development Associations in relations to the development of natural waterways in the Rhine, Weser and Elbe districts is to be taken over by the Reich.

Article 98.—For the purpose of co-operation in matters concerning waterways, Advisory Councils shall be established with the consent of the Reichsrat in accordance with detailed regulations by the Government of the Reich.

Article 99.—In connection with natural waterways, dues may be levied only in respect of such works, appliances and other installations as are intended for the facilitation of traffic.

Expenses of the establishment and maintenance of installations not intended exclusively for the facilitation of traffic, but intended also for other purposes, may be defrayed only up to a proportionate amount by means of dues on navigation. Interest and sinking-fund on the capital expended shall be reckoned as expenses of establishment.

The provisions of the previous paragraph apply to dues levied for artificial waterways, as well as to installations in connection therewith and in the ports.

In the sphere of inland navigation, the basis for the assessment of navigation dues may be the total expenses of a waterway, a river-district, or a system of waterways.

These provisions apply also in respect of timber rafts upon navigable waterways.

The imposition of taxes upon foreign ships and their cargoes, different from or higher than those levied upon German ships and cargoes, is a question for the Reich alone.

The Reich may, by means of a law, require contributions in other ways from parties concerned in navigation, for the provision of funds for the maintenance and development of the German system of waterways.

Article 100.—For the purpose of meeting the expenses of maintenance and development of inland waterways, a law of the Reich may provide for contributions from those who profit in any other way than by navigation in the construction of dams, in cases where several States have shared in, or where the Reich alone has borne the expenses of construction.

Article 101.—It is the duty of the Reich to assume ownership and administration of all navigation marks, particularly lighthouses, light-ships, buoys, barrels and beacons. After such transfer, marks may be constructed and extended only by, or with the consent of, the Reich.

Section VII

Administration of Justice

Article 102.—Judges are independent and subject only to the law.

Article 103.—The ordinary jurisdiction is exercised by the High Court of the Reich and the Courts of the States.

Article 104.—The judges of the ordinary Courts are appointed for life. They may be removed from office, permanently or temporarily transferred to another position or retired only on the authority of a judicial decision, and only upon the grounds and by the methods of procedure fixed by law. Age limits may be fixed by legislation, upon reaching which judges shall retire.

Provisional removal from office when authorised by law is not affected by the above.

In the case of a re-arrangement of the Courts or their circuits, the State Administration of Justice may order compulsory transfer to another Court, or removal from office, but only on condition of the retention of full salary.

These provisions do not apply to commercial judges, assessors and jurymen.

Article 105.—Extraordinary Courts are prohibited. No one may be withdrawn from his legal judge. Legal regulations regarding Courts-Martial and Summary Military Courts are not affected by the above. Military Courts of Honour are abolished.

Article 106.—Military jurisdiction is abolished, except in time of war and on board warships. Details are regulated by a law of the Reich.

Article 107.—In the Reich and the States, administrative courts shall be established by law for the protection of individuals against regulations and decrees of the administrative authorities.

Article 108.—A Supreme Court for the German Reich shall be established by law of the Reich.

PART II

FUNDAMENTAL RIGHTS AND DUTIES OF GERMANS

SECTION I

THE INDIVIDUAL

Article 109.—All Germans are equal before the law.

Men and women have fundamentally the same civic rights and duties.

Public legal privileges or disadvantages of birth or rank shall be abolished. Titles of nobility shall be simply a part of the name, and may no longer be conferred.

Titles may be conferred only when they indicate an office or calling; academic degrees are not hereby affected.

Orders and badges of honour may not be conferred by the State.

No German is permitted to accept a title or order from a foreign Government.

Article 110.—Nationality in the Reich and the States is acquired and terminated as may be provided by the law of the Reich. Every subject of a State is also a subject of the Reich.

Every German has the same rights and duties in any State of the Reich as the subjects of that State.

Article 111.—All Germans enjoy the right of change of domicile within the whole Reich. Everyone has the right to stay in any part of the Realm that he chooses, to settle there, acquire landed property and pursue any means of livelihood. Restrictions may be imposed only by law of the Reich.

Article 112.—Every German is entitled to emigrate to countries outside the Reich. Emigration may be restricted only by law of the Reich.

All nationals of the Reich within and beyond its territory are entitled to claim the protection of the Reich in relation to a foreign power.

No German may be handed over to a foreign Government for prosecution or punishment.

Article 113.—Sections of the population of the Reich speaking a foreign language may not be restricted, whether by way of legislation or administration in their free racial development; this applies specially to the use of their mother tongue in education, as well as in questions of internal administration and the administration of justice.

Article 114.—Personal liberty is inviolable. No encroachment on or deprivation of personal liberty by any public authority is permissible except in virtue of a law.

Persons, who have been deprived of their liberty, shall be informed—at the latest on the following day—by what authority and on what grounds the deprivation of liberty has been ordered; opportunity shall be given to them without delay to make legal complaint against such deprivation.

Article 115.—The residence of every German is an inviolable sanctuary for him; exceptions are admissible only in virtue of laws.

Article 116.—No punishment may be inflicted for any action unless the action was designated by law as punishable, before it was committed.

Article 117.—The secrecy of correspondence and of the postal, telegraph and telephone services is inviolable. Exceptions may be permitted only by law of the Reich.

Article 118.—Every German has the right, within the limits of general laws, to express his opinion freely, by word of mouth, writing, printed matter or picture, or in any other manner. This right must not be affected by any conditions of his work or appointment, and no one is permitted to injure him on account of his making use of such rights.

No censorship shall be enforced, but restrictive regulations may be introduced by law in reference to cinematograph entertainments. Legal measures are also admissible for the purpose of combating bad and obscene literature, as well as for the protection of youth in public exhibitions and performances.

Section II

The Life of the Community

Article 119.—Marriage, as the foundation of family life and of the preservation and growth of the nation, is under the special protection of the Constitution. It rests upon the equal rights of both sexes.

The preservation of the purity and health of the family and its social advancement is the task both of the State and of the local authorities. Families with a large number of children have a right to corresponding provision.

Motherhood has a claim upon the protection and care of the State.

Article 120.—The rearing of the rising generation, in physical, mental and social efficiency, is the highest duty and natural right of the parents, the accomplishment of which is watched over by the community of the State.

Article 121.—By means of legislation, opportunity shall be provided for the physical, mental and social nurture of illegitimate children, equal to that enjoyed by legitimate children.

Article 122.—Young persons shall be protected against exploitation, as well as against moral, spiritual, or bodily neglect. Both the State and the local authorities must undertake the necessary arrangements.

Protective measures of a compulsory character may only be imposed by virtue of a law.

Article 123.—All Germans have the right without notification or special permission to assemble peaceably and unarmed.

Open-air meetings may be made notifiable by a law of the Reich, and in case of direct danger to public security may be forbidden.

Article 124.—All Germans have the right to form unions and associations for purposes not in contravention of the penal laws. This right may not be restricted by preventive regulations. The same provisions apply to religious unions and associations.

Every union is at liberty to acquire legal rights in accordance with the provisions of the Civil Code. These rights shall not be refused to a union on the ground that its objects are of political, social-political, or religious nature.

Article 125.—The freedom and the secrecy of elections are guaranteed. Details are to be determined by electoral laws.

Article 126.—Every German has the right to address written petitions or complaints to the competent authorities or the representatives of the people. This right may be exercised by individuals, and by several persons in common.

Article 127.—Communes and associations of Communes have the right to administer their own affairs within the limits of the laws.

Article 128.—All citizens of the State, without distinction, are eligible for public offices as provided by law and in accordance with their qualifications and abilities.

All exceptional provisions against women officials are annulled.

The conditions of employment of officials shall be determined by law of the Reich.

Article 129.—Officials are appointed for life, save as may be otherwise provided by law. Pensions and provision for surviving dependants shall be regulated by law. Rights duly acquired by officials are inviolable. Officials may have recourse to legal proceedings in respect of financial claims.

Officials may not be provisionally removed from office, or provisionally or permanently retired, or transferred to another post with a lower salary, save in accordance with and in the manner determined by law.

Every penalty inflicted on an official must be subject to appeal and the possibility of revision. Unfavourable entries may not be made in the personal record of an official, unless he has been given an opportunity to reply to them. Officials have the right to examine their personal records.

The inviolability of duly acquired rights and opportunity to have recourse to legal proceedings in respect of financial claims are also specially guaranteed to professional soldiers. In other respects their status shall be determined by law of the Reich.

Article 130.—Officials are servants of the community and not of any party.

Freedom of political opinions and the free right of association are guaranteed to all officials.

Officials have special Service representation, details in regard to which shall be determined by law of the Reich.

Article 131.—Should an official, in the exercise of the public authority conferred upon him, neglect an official duty incumbent upon him in relation to a third party, the responsibility, as a matter of principle, falls upon the State or the corporate body in whose service the official is acting. Their right to take retributory action is reserved. Recourse to the ordinary process of law must not be excluded.

More detailed regulations shall be prescribed by legislation by the appropriate authority.

Article 132.—It is the duty of every German to undertake the duties or honorary offices according to the provisions of the laws.

Article 133.—All citizens are bound, according to the provisions of the laws, to undertake personal service for the State and the local authorities.

Military service is organised in accordance with the terms of the Military Defence Law of the Reich. This Law determines also to what extent certain

fundamental rights must be restricted for members of the armed forces to ensure the fulfilment of their duties and the maintenance of military discipline.

Article 134.—All citizens, without exception, contribute in proportion to their means to all public taxes, in accordance with the provisions of the laws.

Section III

Religion and Religious Associations

Article 135.—All inhabitants of the Reich enjoy full liberty of faith and of conscience. The undisturbed practice of religion is guaranteed by the Constitution and is under State protection. The general laws of the State shall remain unaffected hereby.

Article 136.—Civil and political rights and duties are neither dependent upon nor restricted by the practice of religious freedom.

The enjoyment of civil and political rights, as well as admission to official posts, are independent of religious creed.

No one is bound to disclose his religious convictions. The authorities have the right to make enquiries as to membership of a religious body only when rights and duties depend upon it or when the collection of statistics ordered by law requires it.

No one may be compelled to take part in any ecclesiastical act or ceremony, or to participate in religious practices or to make use of any religious form of oath.

Article 137.—There is no State Church.

Freedom of association is guaranteed to religious bodies. The union of religious bodies within the territory of the Reich is subject to no restriction.

Every religious body regulates and administers its affairs independently, within the limits of the laws applicable to all. It appoints its officers without the co-operation of the State or of the local authorities.

Religious bodies acquire legal status in accordance with the general regulations of the civil code.

Religious bodies remain legal corporations in so far as they have been so up to the present. Equal rights shall be granted to other religious bodies upon application, if their constitution and the number of their members offer a guarantee of permanence. Where several such religious bodies, which are legal corporations, combine to form one union, this union becomes a legal corporation.

Religious bodies, which are legal corporations, are entitled to levy taxes on the basis of the civic tax-rolls, in accordance with the provisions of the laws of the States.

Associations, devoting themselves to the common promotion of a world philosophy, shall be placed upon an equal footing with religious bodies.

So far as further regulations may be necessary for the carrying-out of these provisions, they shall be prescribed by legislation of the States.

Article 138.—Outstanding State liabilities to religious bodies, whether founded upon legislation, contract or exceptional legal title, shall be redeemed by legislation by the States. The governing principles of such legislation shall be prescribed by the Reich.

The property and other rights of religious bodies and unions in respect of their institutions, foundations and other property devoted to public worship, education and social welfare, are guaranteed.

Article 139.—Sundays and holidays recognised by the State shall remain under legal protection as days of rest and spiritual improvement.

Article 140.—The members of the armed forces are guaranteed the necessary free time for the performance of their religious duties.

Article 141.—Religious bodies have the right of entry for religious purposes into the army, hospitals, prisons, or other public institutions, so far as is necessary for the conduct of public worship and religious ministrations, but any form of compulsion is forbidden.

Section IV

Education and Schools

Article 142.—Art and science, and the teaching thereof, are free.

The State guarantees their protection and participates in furthering them.

Article 143.—Provision shall be made for the education of the young by means of public institutions. The Reich, the States and the local authorities shall co-operate in their organisation. The training of teachers shall be regulated in a uniform manner for the whole Reich, on the general lines laid down for higher education.

Teachers in public schools have the rights and duties of State officials.

Article 144.—The whole system of education is under the supervision of the State, which may assign a share in such work to the local authorities. School inspection is carried out by competent, trained and expert officials of high rank.

Article 145.—School attendance is compulsory for all. The fulfilment of this obligation is provided for by primary schools, with at least an eight years' course, followed by continuation schools with a course extending to the completion of the eighteenth year of age.

Instruction and all accessories are free of charge in the primary and continuation schools.

Article 146.—The public system of education shall be organically developed. Upon the basis of primary schools common to all shall be built up a system of secondary and higher education. The governing consideration in the building up of this system shall be the diversity of vocations and, as regards the admission of a child into any particular school, its capacity and inclination, not the economic and social standing of its parents.

Upon the request of persons responsible for the education of children, however, primary schools in accordance with their religious creed or philosophic views may be established in a locality, so far as is possible without interference with the orderly development of the school system, especially as regards the general principles of the first paragraph of this Article. The wishes of persons responsible for the education of children shall be taken into account as far as possible. Further details shall be determined by legislation by the States in accordance with principles laid down by a law of the Reich.

Public provision shall be made by the Reich, the States and the local authorities, for the admission of persons of small means to secondary and higher

educational institutions; in particular, educational assistance grants shall be provided for the parents of children considered suitable for education in secondary and higher schools until the completion of their education.

Article 147.—Private schools, as a substitute for public schools, require the approval of the State, and are subject to the laws of the States. Approval may be granted when the private schools are not inferior to the public schools in their educational aims and organisation, nor in the professional qualifications of their teaching staff; further, there must be no segregation of pupils based upon the means of their parents. Approval shall be refused when the economic and legal position of the teaching staff is not sufficiently assured.

Private primary schools are permissible only when there is in a locality no public primary school corresponding to the religious creed or philosophic views of a minority of persons responsible for the education of children whose desires must be taken into consideration in accordance with Article 146, paragraph 2, or when the educational administrative authorities recognise that a special educational interest is involved.

Primary preparatory schools are to be abolished.

Private schools not serving as substitutes for public school retain their existing legal rights.

Article 148.—All schools shall aim at inculcating moral character, a civic conscience, personal and vocational efficiency, imbued with the spirit of German nationality and international goodwill.

In giving instruction in public schools, care must be taken not to give offence to the susceptibilities of those holding different opinions.

The duties of citizenship and technical education are subjects of instruction in the schools. Upon the completion of the period of school attendance, every pupil receives a copy of the Constitution.

The Reich, the States and the local authorities shall promote the organisation of popular culture, including popular high schools.

Article 149.—Religious instruction is a regular subject in schools, with the exception of undenominational (secular) schools. The giving of such instruction shall be regulated in accordance with legislation upon schools Religious instruction shall be given in accordance with the principles of the religious body concerned, without prejudice to the right of State supervision.

The giving of religious instruction and the undertaking of spiritual duties are subject to the declared assent of the teacher; participation in religious instruction and in religious rights and ceremonies is subject to the declared assent of the person responsible for the religious education of the child.

The theological Faculties in the Universities shall continue to be maintained.

Article 150.—Monuments of artistic, historic, and natural interest, and exceptional landscapes are under the protection and care of the State.

It is the business of the Reich to prevent the removal of German art treasures into foreign countries.

Section V

Economic Life

Article 151.—The organisation of economic life must correspond to the principles of justice, and be designed to ensure for all a life worthy of a human being. Within these limits the economic freedom of the individual must be guaranteed.

Legal compulsion is permissible only in order to enforce rights which are threatened, or to subserve the pre-eminent claims of the common weal.

Freedom of trade and industry is guaranteed in accordance with the provisions of laws of the Reich.

Article 152.—Freedom of contract shall prevail in economic relations, subject to the provisions of the laws.

Usury is forbidden. Contracts which are opposed to morality are void.

Article 153.—Property is guaranteed by the Constitution. Its extent and the restrictions placed upon it are defined by law.

Expropriation may be effected only for the benefit of the general community and upon the basis of law. It shall be accompanied by due compensation, save in so far as may be otherwise provided by a law of the Reich. In case of dispute as to the amount of compensation, resort may be had to legal proceedings in the ordinary course, unless a law of the Reich otherwise determines. Property of the States, local authorities and public utility associations may be expropriated by the Reich only on payment of compensation.

The ownership of property entails obligations. Its use must at the same time serve the common good.

Article 154.—The right of inheritance is guaranteed in accordance with the provisions of the Civil Law.

The share in any inheritance which accrues to the State is determined by law.

Article 155.—The distribution and use of land shall be supervised by the State in such a way as to prevent abuse and with a view to ensuring to every German a healthy dwelling and to all German families, particularly those with many children, a dwelling and economic homestead suited to their needs. Special consideration shall be given in the framing of the Homestead Laws to persons who have taken part in the war.

Landed property may be expropriated when required to meet the needs of housing, or for the purpose of land settlement, the bringing of land into cultivation or the improvement of husbandry. Testamentary trusts are to be terminated.

The cultivation and full utilization of the land is a duty the land owner owes to the community. Increment in the value of landed property, not accruing from any expenditure of labour and capital upon the land, shall be devoted to the uses of the community.

All riches in the soil and all natural sources of power of economic value shall be under the control of the State. Private royalties shall be transferred to the State by legislation.

Article 156.—The Reichmay, by legislation, without prejudice to the payment of compensation and subject to appropriate application of the

visions governing expropriation, transfer to public ownership private economic undertakings which are suitable for socialization. It may itself undertake, or assign to the States or local authorities a share in the management of such undertakings and associations, or otherwise ensure to itself a determining influence therein.

Further, the Reich may, by legislation, in case of pressing necessity and in the economic interests of the community, oblige economic undertakings and associations to combine, on a self-governing basis, for the purpose of ensuring the co-operation of all productive factors of the nation, associating employers and employees in the management, and regulating the production, manufacture, distribution, consumption, prices and the import and export of commodities upon principles determined by the economic interest of the community.

Industrial and agricultural co-operative societies and federations thereof may be incorporated into the public economic system, at their own request and with due regard to their constitution and special characteristics.

Article 157.—Labour is under the special protection of the Reich.

The Reich will frame a uniform labour code.

Article 158.—Intellectual work, the rights of discoverers, inventors and artists are under the protection and care of the Reich.

By means of international agreements, recognition and protection must be ensured abroad for the products of German science, art, and technical skill.

Article 159.—Freedom of association for the maintenance and improvement of labour and economic conditions is guaranteed to every one and for all occupations. All agreements and measures tending to restrict or obstruct such freedom are illegal.

Article 160.—Every person in the position of an employee or workman has a right to such free time as is necessary for the exercise of his civic rights, and, in so far as the business in which he is employed will not be seriously injured thereby, for the discharge of honorary public duties entrusted to him. Legislation shall determine how fa such a person may be entitled to claim compensation.

Article 161.—The Reich will, with the full co-operation of insured persons, create a comprehensive system of insurance for the maintenance of health and fitness for work, the protection of motherhood and provision for the economic consequences of old age, infirmity, and the vicissitudes of life.

Article 162.—The Reich will initiate international regulation of the legal conditions of workers, with a view to securing for the working class of the world a universal minimum of social rights.

Article 163.—It is the moral duty of every German, without prejudice to his personal liberty, to make such use of his mental and bodily powers as shall be necessary for the welfare of the community.

Every German must be afforded an opportunity to gain his livelihood by economic labour. Where no suitable opportunity of work can be found for him, provision shall be made for his support. Details shall be determined by special laws of the Reich.

Article 164.—The independent middle class in agriculture, industry and commerce, shall be encouraged by legislative and administrative measures and shall be protected against exploitation and oppression.

Article 165.—Workers and salaried employees are called upon to co-operate with equal rights in common with the employers in the regulation of wages and conditions of labour and in the general economic development of the forces of production. The organisations on both sides and the agreements made by them shall be recognised.

For the protection of their social and economic interests, workers and salaried employees shall have legal representation in Workers' Councils for individual undertakings and in District Workers' Councils grouped according to economic districts and in a Workers' Council of the Reich.

The District Workers' Council and the Workers' Council of the Reich shall combine with representatives of the employers and other classes of the population concerned so as to form District Economic Councils and an Economic Council of the Reich, for the discharge of their joint economic functions and for co-operation in the carrying-out of laws relating to socialization. The District Economic Councils and the Economic Council of the Reich shall be so constituted as to give representation thereon to all important vocational groups in proportion to their economic and social importance.

All Bills of fundamental importance dealing with matters of social and economic legislation shall, before being introduced, be submitted by the Government of the Reich to the Economic Council of the Reich for its opinion thereon. The Economic Council of the Reich shall have the right itself to propose such legislation. Should the Government of the Reich not agree with any such proposal, it must nevertheless introduce it in the Reichstag, accompanied by a statement of its own views thereon. The Economic Council of the Reich may arrange for one of its own members to advocate the proposal in the Reichstag.

Powers of control and administration in any matters falling within their province may be conferred upon Workers' Councils and Economic Councils.

The constitution and functions of the Workers' and Economic Councils and their relations with other autonomous social organizations are within the exclusive jurisdiction of the Reich.

Provisional and Concluding Arrangements

Article 166.—Until the establishment of the Administrative Court of the Reich its place shall be taken, as regards the formation of the Court of Inquiry into Elections, by the High Court of the Reich.

Article 167.—The provisions of Article 18, paragraphs 3 to 6, shall not come into force until two years after the publication of the Constitution of the Reich.

Article 168.—Until the promulgation of the State law provided for in article 63, but at the longest for the period of one year, all Prussian votes in the Reichsrat may be exercised by members of the Government.

Article 169.—The date on which the provisions of Article 83, paragraph , are to come into force shall be determined by the Government of the Reich.

For a suitable transition period, the collection and administration of customs and excise may, at their request, be left to the States.

Article 170.—The administration of the postal and telegraphic services of Bavaria and Württemberg shall be transferred to the Reich by 1st April, 1921, at the latest.

Should no agreement as to the conditions of transfer have been attained by 1st October, 1920, the decision shall be given by the Supreme Court.

Up to the date of transfer the existing rights and responsibilities of Bavaria and Württemberg shall remain in force. Postal and telegraphic communications with neighbouring foreign States shall, however, be regulated exclusively by the Reich.

Article 171.—State railways, waterways and navigation marks shall be transferred to the Reich by 1st April, 1921, at the latest.

Should no agreement as to the conditions of transfer have been attained by 1st October, 1920, the decision shall be given by the Supreme Court.

Article 172.—Up to the date at which the law of the Reich as to the Supreme Court comes into force, its functions shall be discharged by a Senate of seven members, four of whom shall be elected by the Reichstag and three by the High Court from its own members. It shall regulate its own procedure.

Article 173.—Until the promulgation of a law of the Reich in accordance with Article 138, the hitherto existing State liabilities to religious bodies, founded upon legislation, contract, or exceptional legal titles, shall remain in force.

Article 174.—Until the promulgation of the law of the Reich provided for in Article 146, paragraph 2, the existing legal position shall be maintained. The law must give special consideration to those districts of the Reich in which a school is already legally established which is not divided according to religious creeds.

Article 175.—The provisions of Article 109 do not apply to orders and decorations conferred for merit during the war years, 1914 to 1919.

Article 176.—All public officials and members of the armed forces must take the oath of allegiance to this Constitution. Details shall be determined by decree of the President of the Reich.

Article 177.—Where in existing laws the use of a religious formula is required in taking an oath, the person concerned may legally replace the religious formula by the declaration "I swear". Otherwise, the substance of the oath as provided by law remains unaltered.

Article 178.—The constitution of the German Reich of 16th April, 1871, and the law of 10th February, 1919, as to the provisional government of the Reich are repealed.

The remaining laws and decrees of the Reich remain in force, so far as they are not in conflict with the present Constitution. The provisions of the Treaty of Peace signed at Versailles on 28th June 1919, are unaffected by the Constitution.

Regulations of authorities, issued in due legal manner upon the basis of existing laws, remain valid until they are annulled by the issue of further regulations or by legislation.

Article 179.—Where, in laws or decrees, reference is made to provisions or institutions abolished by this Constitution, they shall be replaced by the corresponding provisions or institutions of this Constitution. In particular,

the National Assembly is replaced by the Reichstag, the Committee of the States by the Reichsrat, and the President of the Reich, elected on the basis of the law as to the provisional government of the Reich, is replaced by the President of the Reich elected upon the basis of this Constitution.

The power of issuing decrees vested in the Committee of the States in accordance with hitherto existing regulations is transferred to the Government of the Reich; the consent of the Reichsrat shall be requisite for the issue of decrees, in accordance with the provisions of this Constitution.

Article 180.—Until the meeting of the first Reichstag, the National Assembly shall have the status of the Reichstag. Until the first President of the Reich enters upon his office, the duties of his office shall be discharged by the President of the Reich elected under the law as to the provisional government of the Reich.

Article 181.—The German people, through their National Assembly, have decreed and prescribed this Constitution. It comes into force upon the day of its promulgation.*

SCHWARZBURG, 11th August, 1919.

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* The Constitution was published in Berlin in the Official Journal of Laws on 14th August, 1919.

REPUBLIC OF CHINA

(TRANSLATION BY HOH CHIH-HSIANG CENTRAL NEWS STAFF WRITER)

NANKING, Dec. 25. Following is a full translation of the Constitution of the Republic of China adopted by the National Assembly on Dec. 25, the 35th Year of the Republic of China (Christmas Day, 1946) after having gone through the procedure of three readings.

The Constitution consists of 175 articles divided into 14 Chapters under the following headings: 1. General Principles, 2. Rights and Duties of the People, 3. The National Assembly, 4. The President, 5. Administration, 6. Legislation, 7. Justice, 8. Examination, 9. Control, 10. Powers of the Central and Local Governments, 11. Local Government System, 12. Election, Recall, Initiative and Referendum, 13. Basic National Policies, and 14. Enforcement and Amendments of the Constitution.

TEXT OF THE CONSTITUTION

PREAMBLE

The National Assembly of the Republic of China, by virtue of the mandate received from the people of the whole country and in accordance with the teachings bequeathed by Dr. Sun Yat-sen in founding the Republic of China, do hereby adopt this Constitution with the aim of consolidating the sovereign power of the state, safeguarding the rights of the people, ensuring social security and promoting the welfare of the people, and cause it to be promulgated throughout the land for faithful and perpetual observance by all.

CHAPTER I.—*General Principles*

Article 1.—The Republic of China, founded on the Three People's Principles, is a democratic republic of the people, for the people and governed by the people.

Article 2.—The sovereignty of the Republic of China resides in the whole body of the people.

Article 3.—Persons possessing the nationality of the Republic of China are citizens of the Republic of China.

Article 4.—The territory of the Republic of China is constituted of its original areas and boundaries. It shall not be altered except by resolution of the National Assembly.

Article 5.—All the peoples of the Republic of China shall be equal.

Article 6.—The National Flag of the Republic of China shall have a red background with a blue sky and a white sun in the upper left corner.

CHAPTER II.—*Rights and Duties of the People*

Article 7.—The people of the Republic of China, irrespective of sex, religion, race, class and party, shall be equal before the law.

Article 8.—The freedom of person of the people shall be protected.

Except arrest in cases of *flagrante delicto* which shall be otherwise provided by law, no arrest and detention may be effected unless through a judicial or a police organ in accordance with legal procedure. No trial and punishment may be effected unless by a law court in accordance with legal procedure. Arrest, detention, trial and punishment, effected not in accordance with legal procedure, may be resisted.

When a person is arrested and detained on suspicion of having committed a crime, the organ effecting the arrest and detention shall inform in writing the person himself and his designated relatives and friends of the cause of his arrest and detention, and shall, within 24 hours at the latest, hand him over to a competent court for trial. He himself or some other person may also petition the said competent court to demand from the organ responsible for the arrest the surrender, within 24 hours, of his person to the court for trial.

The court shall not reject the petition referred to in the preceding paragraph, and also may not order the organ responsible for the arrest and detention to make an investigation and report first. The organ responsible for the arrest and detention shall not refuse to execute or delay in executing the writ of the court for surrender of the person for trial.

When a person is illegally arrested and detained by any organ, he himself or some other person may petition the court for an investigation, and the court shall not reject the petition and shall, within 24 hours, make the investigation from the organ responsible for the arrest and detention and deal with the case in accordance with law.

Article 9.—Except those in active military service, no one shall be liable to trial by a military court.

Article 10.—The people shall have the freedom of domicile and of change of domicile.

Article 11.—The people shall have the freedom of speech, teaching, writing and publication.

Article 12.—The people shall have the freedom of secrecy of correspondence.

Article 13.—The people shall have the freedom of religious belief.

Article 14.—The people shall have the freedom of assembly and of forming associations.

Article 15.—The right to exist, the right to work and the right to property of the people shall be protected.

Article 16.—The people shall have the right to present petitions, lodge complaints and institute legal proceedings.

Article 17.—The people shall exercise the powers of election, recall, initiative and referendum.

Article 18.—The people shall have the right to take part in state examinations and to hold public offices.

Article 19.—The people shall have the duty of paying taxes in accordance with law.

Article 20.—The people shall have the duty of performing military services in accordance with law.

Article 21.—The people shall have the right and obligation of receiving citizen's education.

Article 22.—All other freedoms and rights of the people, not detrimental to social order and public interests, shall be protected by the constitution.

Article 23.—The freedoms and rights enumerated in the various articles above, except what is necessary for preventing an infringement of the freedom of other persons, averting an urgent crisis, maintaining social order for promoting public interests, may not be restricted by law.

Article 24.—Any public functionary, who in violation of law, infringes upon the freedoms or rights of the people, shall, besides being subject to disciplinary punishment in accordance with law, be held responsible under criminal and civil laws. The injured person may, in accordance with law, petition the State for compensation for damages sustained.

CHAPTER III.—*The National Assembly*

Article 25.—The National Assembly shall, in accordance with the provisions of this Constitution, exercise the political powers on behalf of the people.

Article 26.—The National Assembly shall be constituted of delegates elected as follows:

(1) Every Hsien and Municipality and an area equivalent thereto shall elect one delegate, but if its population exceed 500,000, an additional delegate shall be elected for every additional 500,000. What constitutes an area equivalent to a Hsien or a Municipality shall be determined by law.

(2) Delegates elected from Mongolia shall be four from every League and one from every Special Banner.

(3) The number of delegates elected from Tibet shall be determined by law.

(4) The number of delegates elected from various peoples in the frontier regions fhall be determined by law.

(5) The number of delegates elected from Chinese nationals residing abroad shall be determined by law.

(6) The number of delegates elected from occupational groups shall be determined by law.

(7) The number of delegates elected from women organizations shall be determined by law.

Article 27.—The functions and powers of the National Assembly shall be as follows:

(1) To elect the President and the Vice-President.

(2) To recall the President and the Vice-President.

(3) To amend the Constitution.

(4) To hold referenda on amendments, proposed by the Legislative Yuan.

With respect to the powers of initiative and referendum, except what is provided in the 3rd and 4th items of the preceding paragraph, the National Assembly shall make regulations pertaining thereto and enforce them, after the said two powers have been exercised by half of the Hsien and Municipalities of the country.

Article 28.—Delegates to the National Assembly shall be re-elected once every six years.

The term of office of the delegates to each National Assembly shall be terminated on the opening day of the next National Assembly.

Incumbent Government officials may not be elected delegates to the National Assembly in constituencies where they hold their offices.

Article 29.—The National Assembly shall meet 90 days prior to the date of expiration of the term of office of the President, to be summoned by the President.

Article 30.—In any of the following circumstances, an extraordinary session of the National Assembly may be convened:

(1) When, in accordance with the provisions of Article 49 of this constitution, it is necessary to hold a supplementary election of the President and the Vice-President.

(2) When, in accordance with a resolution of the Control Yuan, an impeachment of the President and the Vice-President is instituted.

(3) When, in accordance with a resolution of the Legislative Yuan, amendments of the constitution are proposed.

(4) When it is convened upon the petition of more than two-fifths of the delegates to the National Assembly.

When an extraordinary session of the National Assembly is called in accordance with the 1st Item or the 2nd Item of the preceding paragraph, the President of the Legislative Yuan shall issue the notice for convening it. When it is called in accordance with the 3rd Item or the 4th Item, it shall be summoned by the President.

Article 31.—The National Assembly shall be held at the seat of the Central Government.

Article 32.—Delegates to the National Assembly shall not be held responsible outside the Assembly for views they express or for votes they cast at the meetings of the Assembly.

Article 33.—Without the permission of the National Assembly, no delegate shall be arrested or detained during the period of sessions except in cases of *flagrante delicto*.

Article 34.—The organization of the National Assembly, the election and recall of the delegates to the National Assembly and the procedure governing the exercise of the powers by the National Assembly shall be prescribed by law.

Chapter IV.—*The President*

Article 35.—The President is the Head of the State and represents the Republic of China in foreign relations.

Article 36.—The President commands the land, sea and air forces of the whole country.

Article 37.—The President shall, in accordance with law, promulgate laws and issue mandates, but they must be counter-signed by the President of the Executive Yuan or the President of the Executive Yuan and the Head of the Ministry or Commission concerned.

Article 38.—The President shall, in accordance with the provisions of this Constitution, exercise the powers of concluding treaties and declaring war and negotiating peace.

Article 39.—The President may, in accordance with law, declare a state of emergency, but his act must be approved or ratified by the Legislative Yuan. When the Legislative Yuan deems it necessary, it may pass a resolution requesting the President to terminate the state of emergency.

Article 40.—The President shall, in accordance with law, exercise the powers of proclaiming amnesties, granting special pardons, and ordering remission of sentences and restitution of civil rights.

Article 41.—The President shall, in accordance with law, appoint and remove civil and military officials.

Article 42.—The President shall, in accordance with law, confer honors and award decorations.

Article 43.—In case of a natural calamity, an epidemic, or a serious national financial and economic crisis, which requires emergency measures to be taken, the President, during the recess of the Legislative Yuan, may, by resolution of the Executive Yuan and in accordance with the Emergency Orders Law, issue emergency orders necessary to cope with the situation, but such emergency orders must, within one month after issue, be presented to the Legislative Yuan for ratification. If the Legislative Yuan refuses to consent, the said emergency orders shall immediately become invalidated.

Article 44.—In case of a dispute arising between or among the different Yuan, besides what is provided in this Constitution, the President may summon a meeting of the Presidents of the Yuan concerned for consultation and settlement.

Article 45.—Any citizen of the Republic of China, having attained the age of 40, may be elected President or Vice-President.

Article 46.—The election of the President and the Vice-President shall be prescribed by law.

Article 47.—The President shall hold office for a term of six years and may continue in office for another term upon re-election.

Article 48.—The President shall, at the time of his Inauguration take an oath as follows :

" I do solemnly and sincerely swear before the poeple of the whole country that I shall faithfully abide by the Constitution, loyally perform my duties, promote the welfare of the people, safeguard the security of the State and shall not betray the trust of the people. Should I break the oath, I am willing to submit myself to severe punishment the State may decree."

Article 49.—In case of the President's office becoming vacant the Vice-President shall succeed to the Presidency up to the end of the Presidential term. In case of both the President's and the Vice-President's offices becoming vacant, the President of the Executive Yuan shall discharge his duties, and shall, in accordance with the provisions of Article 30, convene an extraordinary session of the National Assembly to hold a supplementary election of the President and the Vice-President, whose term of office shall be to complete the unfinished Presidential term.

In case the President is incapacitated by any cause, the Vice-President shall discharge his duties. In case both the President and the Vice-President

are incapacitated, the President of the Executive Yuan shall discharge their duties.

Article 50.—The President shall retire on the day his term of office expires. If by that time a new President has not yet been elected or if already elected, both the President and the Vice-President have not been inaugurated, the President of the Executive Yuan shall discharge the duties of the President.

Article 51.—The period during which the President of the Executive Yuan may discharge the duties of the President shall exceed three months.

Article 52.—Except in the case of an offence against the internal or external security of the State, the President shall not be liable to criminal prosecution, unless he has been recalled or released from office.

CHAPTER V.—*Administration*

Article 53.—The Executive Yuan is the highest administrative organ of the State.

Article 54.—In the Executive Yuan, there shall be a President and a Vice-President, Heads of various Ministries and Commissions and a number of Executive Members without portfolio.

Article 55.—The President of the Executive Yuan shall be nominated by the President and appointed with the consent of the Legislative Yuan.

During the recess of the Legislative Yuan, if the President of the Executive Yuan resigns or if his office becomes vacant, the Vice-President of the Executive Yuan shall discharge his duties, but the President shall within 40 days request the Legislative Yuan to summon a meeting of the Yuan and nominate a candidate for the presidency of the Executive Yuan, to request for its consent.

Pending the consent of the Legislative Yuan to the candidate for the presidency of the Executive Yuan nominated by the President, the Vice-President of the Executive Yuan shall discharge the duties of the President of the Executive Yuan.

Article 56.—The Vice-President of the Executive Yuan, the Heads of the various Ministries and Commissions and the Executive Members without portfolio shall be appointed by the President upon the nomination of the President of the Executive Yuan.

Article 57.—The President of the Executive Yuan shall be responsible to the Legislative Yuan in accordance with the following provisions:

(1) The Executive Yuan shall have the duty to present to the Legislative Yuan its administrative policies and administrative reports. Members of the Legislative Yuan during the sessions of the Yuan shall have the right to interpellate the President of the Executive Yuan and the Heads of the various Ministries and Commissions of the Executive Yuan.

(2) When the Legislative Yuan disapproves an important policy of the Executive Yuan, it may pass a resolution requesting the Executive Yuan to alter such a policy. The Executive Yuan, with respect to the resolution of the Legislative Yuan, may, with the approval of the President, request the Legislative Yuan to reconsider it. If, at the time of re-consideration, two thirds of the Members of the Legislative Yuan present at the meeting uphold the

original resolution, the President of the Executive Yuan shall accept the said resolution or resign from his office.

(3) If the Executive Yuan, with respect to a resolution passed by the Legislative Yuan on a law bill, a budget estimate bill or a treaty, deems the said resolution difficult of execution, it may, with the approval of the President, request, within ten days after the delivery of the said bill to the Executive Yuan, the Legislative Yuan to reconsider it. If, at the time of re-consideration, two-thirds of the Members of the Legislative Yuan present at the meeting uphold the original resolution, the President of the Executive Yuan shall accept the said resolution or resign from his office.

Article 58.—In the Executive Yuan, there shall be Executive Yuan meetings to be composed of the President and the Vice-President of the Executive Yuan, Heads of the various Ministries and Commissions and Executive Members without portfolio, with the President of the Executive Yuan as Chairman.

The President of the Executive Yuan and the Heads of the various Ministries and Commissions shall bring before the meetings of the Executive Yuan bills to be presented to the Legislative Yuan, concerning laws, budget estimates, states of emergency, amnesties, declarations of war, negotiations for peace, treaties and other important matters, or matters of common concern to various Ministries and Commissions.

Article 59.—The Executive Yuan shall, three months before the beginning of a new fiscal year, present to the Legislative Yuan the budget estimate for the following year.

Article 60.—The Executive Yuan shall, within four months after the end of the fiscal year, present the budget to the Control Yuan.

Article 61.—The organization of the Executive Yuan shall be prescribed by law.

CHAPTER VI.—*Legislation*

Article 62.—The Legislative Yuan is the highest legislative organ of the state, to be constituted of popularly elected Members, who shall exercise the power of legislation on behalf of the people.

Article 63.—The Legislative Yuan shall have the power to decide on bills concerning laws, budget estimate, states of emergency, amnesties, declarations of war, negotiations for peace, treaties and other important matter of the State.

Article 64.—Members of the Legislative Yuan shall be elected in accordance with the following provisions:

(1) Those elected from various provinces and various municipalities under the direct jurisdiction of the National Government. If the population is below 3,000,000, each shall elect five members. If the population exceeds 3,000,000, there shall be an additional member for every additional 1,000,000 persons.

(2) Those elected from various Mongolian Leagues and Banners.

(3) Those elected from Tibet.

(4) Those elected from various peoples in frontier regions.

(5) Those elected from Chinese nationals residing abroad.

(6) Those elected from occupational groups.

The election of the Members of the Legislative Yuan, and the allotment of the number of the Members of the Legislative Yuan in Items 2 to 6 in the preceding paragraph shall be determined by law.

The number of woman members in the various Items of the First Paragraph shall be determined by law.

Article 65.—Members of the Legislative Yuan shall hold office for a term of three years and may continue in office upon re-election. The election shall be completed within three months before the expiration of the term of office of each Term of the Members.

Article 66.—In the Legislative Yuan, there shall be a President and a Vice-President, to be elected by and from among the Members of the Yuan.

Article 67.—In the Legislative Yuan, there may be established various commissions.

The various commissions may invite officials of the Government and social personages concerned to be present to answer questions.

Article 68.—The Legislative Yuan shall hold two sessions every year and shall convene the meetings on its own accord. The first session shall last from February to the end of May, and the second session from September to the end of December. In case of necessity, the period of the session may be extended.

Article 69.—In any of the following circumstances, the Legislative Yuan may hold an extraordinary meeting :

(1) At the request of the President.

(2) Upon the petition of one-fourth of the Members of the Legislative Yuan.

Article 70.—The Legislative Yuan may not propose to increase the expenditures listed in the budget estimate presented by the Executive Yuan.

Article 71.—At the meetings of the Legislative Yuan, the President of the various Yuan and the Heads of the various Ministries and Commissions concerned may be present to give opinions.

Article 72.—Law bills passed by the Legislative Yuan shall be presented to the President and the Executive Yuan, and the President shall, within ten days after their receipt, promulgate them, but the President may also deal with them in accordance with the provisions of Article 57 of this Constitution.

Article 73.—Members of the Legislative Yuan shall not be held responsible outside the Yuan for opinions they express and votes they cast at the meeting of the Yuan.

Article 74.—Without the permission of the Legislative Yuan, no Member of the Yuan may be arrested or detained except in cases of *flagrante delicto.*

Article 75.—Members of the Legislative Yuan may not hold concurrently official posts.

Article 76.—The organization of the Legislative Yuan shall be prescribed by law.

CHAPTER VII.—*Justice*

Article 77.—The Judicial Yuan is the highest judicial organ of the State, to take charge of the conduct of trials of civil, criminal and administrative suits and of the disciplinary punishment of public functionaries.

Article 78.—The Judicial Yuan shall interpret the Constitution and shall also have the power to unify the interpretation of laws and ordinances.

Article 79.—In the Judicial Yuan, there shall be a President and a Vice-President, to be nominated by the President and appointed with the consent of the Control Yuan.

In the Judicial Yuan, there shall be a number of Grand Justices to attend to matters stipulated in Article 78 of this Constitution, who shall be nominated by the President and appointed with the consent of the Control Yuan.

Article 80.—Judicial officials shall place themselves outside and above political parties or factions and shall conduct trials independently in accordance with law, without being subject to any interference.

Article 81.—Judicial officials shall hold office for life and may not be removed from office, unless they have been subject to criminal or disciplinary punishment or have been declared to be under interdiction. Except in accordance with law, they may not be suspended, transferred or have their salaries reduced.

Article 82.—The organization of the Judicial Yuan and of the various grades of law courts shall be prescribed by law.

CHAPTER VIII.—*Examination*

Article 83.—The Examination Yuan is the highest examination organ of the State, to take charge of matters of examination, employment, registration and official grading, checking of records, scale of salaries, promotion and demotion, safeguarding of posts, commendation, consolatium, retirement and old age pensions.

Article 84.—In the Examination Yuan, there shall be a President and a Vice-President and a number of Examination Members to be nominated by the President and appointed with the consent of the Control Yuan.

Article 85.—In the selection of public functionaries, the system of open competition in examinations shall be enforced, and examinations shall be held in different areas with prescribed number of persons to be selected according to various provinces and areas severally. No person may be appointed to a public office unless he has passed an examination.

Article 86.—The following qualifications shall be determined and registered through examinations by the Examination Yuan in accordance with law.

(1) Qualifications for appointment as public functionaries.

(2) Qualifications for practice in specialised professions and as technicians.

Article 87.—The Examination Yuan, with respect to matters under its charge, may present law bills to the Legislative Yuan.

Article 88.—Examination Members shall place themselves outside and above political parties or factions and shall exercise their powers independently in accordance with law.

Article 89.—The organization of the Examination Yuan shall be prescribed by law.

Chapter IX.—*Control*

Article 90.—The Control Yuan is the highest organ of control of the State, to exercise the powers of consent, impeachment, rectification and auditing.

Article 91.—In the Control Yuan, there shall be Control Members, who shall be elected by various Provincial and Municipal Councils, the Local District Councils of Mongolia and Tibet, and overseas Chinese bodies, and the allotment of their number shall be made in accordance with the following provisions:

(1) Five persons from every province.
(2) Two persons from every municipality under the direct jurisdiction of the National Government.
(3) Eight persons from various Mongolian Leagues and Banners.
(4) Four persons from Chinese nationals residing abroad.

Article 92.—In the Control Yuan, there shall be a President and a Vice-President, who shall be elected by and from among the Members of the Yuan.

Article 93.—Control Yuan Members shall hold office for a term of six years and may continue in office upon re-election.

Article 94.—When the Control Yuan exercises the power of consent in accordance with this Constitution, it shall do so by resolution of a majority of the Members present at a meeting.

Article 95.—The Control Yuan, in the exercise of its censorial powers may ask the Executive Yuan and its various Ministries and Commissions to submit to it for perusal orders issued by them and the various related documents.

Article 96.—The Control Yuan may, in accordance with the nature of the work of the Executive Yuan and its various Ministries and Commissions, establish severally a number of Committees to investigate their activities with the view to finding out whether or not they are guilty of violation of law or of neglect of duty.

Article 97.—The Control Yuan may, on the basis of the examination and resolutions of the said various committees, propose measures of rectification, to be sent to the Executive Yuan and its various Ministries and Commissions concerned, directing their attention thereto to effect improvements.

If the Control Yuan deems the public functionaries of the Central and Local Governments guilty of neglect of duty or violation of law, it may propose measures of rectification or institute impeachments. If the case is criminal in nature, it shall be passed on to a law court to be dealt with.

Article 98.—Impeachments by the Control Yuan of the public functionaries of the Central and Local Governments may be instituted upon the proposal of more than one Control Yuan Member and the endorsement, after due consideration, of more than nine Members.

Article 99.—In the institution of impeachments against the personnel of the Judicial Yuan or the Examination Yuan for neglect of duty or violation of law, the provisions of Articles 95, 97 and 98 shall apply.

Article 100.—Impeachments of the President and the Vice-President by the Control Yuan may be instituted upon the proposal of more than one-fourth of the entire membership of the Yuan and the endorsement, after due consideration, of the majority of entire membership of the Yuan, and they shall be brought before the National Assembly.

Article 101.—Members of the Control Yuan shall not be held responsible outside the said Yuan for opinions they express or for votes they cast at the meetings of the Yuan.

Article 102.—Without the permission of the Control Yuan, no Member of the Yuan may be arrested or detained except in cases of *flagrante delicto*.

Article 103.—Members of the Control Yuan may not hold concurrently other public offices or be engaged in any profession.

Article 104.—In the Control Yuan, there shall be an Auditor-General to be nominated by the President and appointed with the consent of the Legislative Yuan.

Article 105.—The Auditor-General shall, within three months after the presentation of the budget by the Executive Yuan, complete the examination in accordance with law, and submit a report of the examination to the Legislative Yuan.

Article 106.—The organization of the Control Yuan shall be prescribed by law.

CHAPTER X.—*Powers of the Central and Local Governments*

Article 107.—The following matters shall be legislated upon and executed by the Central Government.

(1) Foreign Affairs.
(2) National defence and military affairs of national defence.
(3) Nationality law, and the criminal, civil and commercial laws.
(4) Judicial system.
(5) Aviation, National highways, National railways, navigation, postal administration and telegraph administration.
(6) Central Government finance and national revenues.
(7) Division of national and provincial revenues.
(8) State-operated economic enterprises.
(9) Currency system and state banks.
(10) Weights and measurements.
(11) Policies of international trade.
(12) Matters concerning foreign finance and economics.
(13) Other matters concerning the Central Government in accordance with this Constitution.

Article 108.—The following matters shall be legislated upon and executed by the Central Government or be delegated to the provincial and Hsien governments for execution:

(1) General rules of provincial and Hsien autonomy.

(2) Division of administrative areas.

(3) Forestry, mining and commerce.

(4) Educational system.

(5) Banking and exchanges systems.

(6) Shipping and sea fishing enterprises.

(7) Public utilities.

(8) Co-operative enterprises.

(9) Water and land communication and transportation involving more than two provinces.

(10) Water conservancy, waterways and agricultural and pastoral enterprises involving more than two provinces.

(11) Registration and grading, appointment and employment, supervision and protection of officials of the Central and Local governments.

(12) Land Law.

(13) Labour law and other social legislation.

(14) Eminent Domain.

(15) Census-taking and statistics of national population.

(16) Immigration and reclamation.

(17) Police system.

(18) Public health.

(19) General Relief, consolatium, and unemployment relief.

(20) Protection and preservation of old books, relics, and historical landmarks of cultural value.

With respect to the various items in the preceding paragraph, the Province may enact separate laws and rules, provided they are not in conflict with national laws.

Article 109.—The following matters shall be legislated upon and executed by the Province or be delegated to the Hsien for execution :

(1) Provincial eduction, public health, industries and communications.

(2) The management and disposal of provincial properties.

(3) Provincial municipal administration.

(4) Provincial operated enterprises.

(5) Provincial co-operative enterprises.

(6) Provincial agriculture and forestry, water conservancy, fishing and animal husbandry, and engineering.

(7) Provincial finance and provincial revenues.

(8) Provincial debts.

(9) Provincial banks.

(10) Provincial police administration.

(11) Provincial charitable and public welfare matters.

(12) Other matters delegated in accordance with national laws.

In case any of the various items in the preceding paragraph involves more than two provinces, it may be undertaken jointly by the various provinces concerned, unless otherwise provided by law.

When the provinces, in undertaking the various items in the first paragraph, find their funds insufficient, they may, by resolution of the Legislative Yuan, be aided by the National Treasury.

Article 110.—The following matters shall be legislated upon and executed by the Hsien :

(1) Hsien education, public health, industries and communications.
(2) The management and disposal of Hsien properties.
(3) Hsien-operated enterprises.
(4) Hsien co-operative enterprises.
(5) Hsien agriculture and forestry, river conservancy, fishing and animal husbandry, and engineering.
(6) Hsien finance and Hsien revenues.
(7) Hsien debts.
(8) Hsien bank.
(9) Hsien police and defence measures.
(10) Hsien charitable and public welfare matters.
(11) Other matters delegated in accordance with national laws and the provincial self-government law.

In case any of the various items in the preceding paragraph involves more than two Hsien, it may be undertaken jointly by the various Hsien concerned, unless otherwise provided by law.

Article 111.—Besides the various matters enumerated in articles 107, 108, 109 and 110, when an unenumerated subject occurs, it shall fall within the jurisdiction of the Central Government when it is of national nature, of the province when it is of provincial nature, and of the Hsien when it is of Hsien nature. In case of a dispute, it shall be settled by the Legislative Yuan.

CHAPTER XI.—*Local Government System*

Section 1.—Province

Article 112.—A province may convene a Provincial Assembly to enact, in accordance with the General Rules of Provincial and Hsien Autonomy, a Provincial Self-Government Law, but it shall not be in conflict with the Constitution.

The organization of the Provincial Assembly and the election of the delegates shall be prescribed by law.

Article 113.—The Provincial Self-Government Law shall contain the following various items :

(1) In the province, there shall be a Provincial Council. Members of Provincial Council shall be elected by citizens of the province.
(2) In the province, there shall be a Provincial Government and a Provincial Governor to be elected by citizens of the province.

(3) Relations between the province and the Hsien.

The powers of legislation belonging to the province shall be exercised by the Provincial Council.

Article 114.—After the enactment of the Provincial Self-Government Law, it shall be immediately submitted to the Judicial Yuan. If the Judicial Yuan deems any part of it unconstitutional, the article violating the Constitution shall be declared null and void.

Article 115.—If, after the enforcement of the Provincial Self-Government Law, it encounters a serious obstacle on account of any of the articles therein, the Judicial Yuan shall first summon the various quarters concerned to present their opinions and then the Presidents of the Executive Yuan, Legislative Yuan, Judicial Yuan, Examination Yuan and Control Yuan shall organize a committee with the President of the Judicial Yuan as Chairman to propose measures of settlement.

Article 116.—Provincial Laws and regulations which are in conflict with national laws shall be null and void.

Article 117.—In case a doubt arises over whether or not there is a conflict between provincial laws and regulations and national laws, it shall be interpreted by the Judicial Yuan.

Article 118.—The self-government of municipalities under the direct jurisdiction of the National Government shall be stipulated by law.

Article 119.—The local self-government system of the various Mongolian Leagues and Banners shall be stipulated by law.

Article 120.—The self-government system of Tibet shall be protected.

Section 2.—Hsien

Article 121.—The Hsien shall enforce Hsien autonomy.

Article 122.—The Hsien may convene a Hsien Assembly and enact in accordance with the General Rules of Provincial and Hsien Autonomy, a Hsien Self-Government Law, but it shall not be in conflict with the Constitution and the Provincial Self-Government Law.

Article 123.—Citizens of the Hsien, with respect to matters concerning Hsien autonomy, shall, in accordance with law, exercise the powers of initiative and referendum, and in regard to the magistrate and other Hsien autonomy personnel, shall, in accordance with law, exercise the powers of election and recall.

Article 124.—In the Hsien, there shall be a Hsien Council. Members of the Hsien Council shall be elected by citizens of the Hsien.

The power of legislation belonging to the Hsien shall be exercised by the Hsien Council.

Article 125.—Hsien separate laws and regulations which are in conflict with national laws or with provincial laws and regulations shall be null and void.

Article 126.—In the Hsien, there shall be a Hsien Government and a Hsien Magistrate to be elected by citizens of the Hsien.

Article 127.—The magistrate shall attend to matters of Hsien autonomy and also matters delegated by the Central and Provincial Governments.

Article 128.—The provisions governing the Hsien shall apply *Mutatis Mutandis* to the Municipality.

CHAPTER XII.—*Elections, Recall, Initiative and Referendum*

Article 129.—The various kinds of elections stipulated in this Constitution, except otherwise provided by this Constitution, shall be carried out by universal, equal, and direct suffrage and by secret ballot.

Article 130.—Citizens of the Republic of China having attained the age of 20 years shall, in accordance with law, have the right of election. Unless otherwise provided by this Constitution and laws, any citizen having attained the age of 23 years shall, in accordance with law, have the right of being elected.

Article 131.—The candidates in the various kinds of elections stipulated in this Constitution may all openly compete in the elections.

Article 132.—In elections, coercion or inducements shall be strictly forbidden. Election suits shall be tried by the court.

Article 133.—An elected person may, in accordance with law, be recalled by the constituency which elects him.

Article 134.—In the various kinds of elections, the number of women to be elected shall be fixed, and the measures pertaining thereto shall be prescribed by law.

Article 135.—Measures with respect to the number and election of the delegates to the National Assembly from interior areas, where conditions of living and habits are peculiar, shall be prescribed by law.

Article 136.—The exercise of the powers of initiative and referendum shall be stipulated by law.

CHAPTER XIII.—*Basic National Policies*

Section 1.—National Defence

Article 137.—The national defence of the Republic of China shall aim at safeguarding the security of the State and preserving world peace.

The organization of national defence shall be prescribed by law.

Article 138.—The land, sea and air forces of the whole country shall be above and outside of personal, regional or party affiliations, shall be loyal to the State, and shall love and protect the people.

Article 139.—No party or individual may utilize armed strength as an instrument in the struggle for political power.

Article 40.—No military men in active service may hold concurrently civil offices.

Section 2.—Foreign Policy

Article 141.—The foreign policy of the Republic of China shall, in the spirit of independence and autonomy and on the basis of the principles of equality and reciprocity, cultivate friendly foreign relations and respect treaties and the United Nations Charter in order to protect the rights and interests of overseas Chinese nationals, to promote international co-operation, to advance international justice and to ensure world peace.

Section 3.—National Economy

Article 142.—The national economy, based on the Principle of People's Livelihood shall carry out equalization of land ownership and restriction of capital in order to seek to attain equal sufficiency in national life and the people's livelihood.

Article 143.—All land within the territory of the Republic of China belongs to the people of the country as a whole. The right of possession of land acquired by the people in accordance with law shall be protected and restricted by law. Private-owned land shall be liable to taxation *ad valorem* and the Government may buy the land *ad valorem*.

Mines fixed to the land and natural power which may be utilized for public benefit economically shall belong to the State. They shall not be affected otherwise because of the people having acquired the right of possession of the land.

If the value of the land is increased not through the exertion of labour and employment of capital, the State shall levy a land increment tax, the proceeds of which shall be enjoyed by the people in common.

The State, in the distribution and adjustment of land, shall act on the principle of helping land-owning tillers and those who make use of the land by themselves, and shall also regulate appropriate sizes of areas for cultivation.

Article 144.—Public utilities and other enterprises of monopolistic nature shall be publicly operated as a principle, but if permitted by law, they may be operated privately by the citizens.

Article 145.—The State, with respect to private wealth and private operated enterprises, shall restrict them by law if they are deemed detrimental to the balanced development of national economic life and the people's livelihood.

Co-operative enterprises shall be encouraged and assisted by the State.

The people's production enterprises and foreign trade shall be encouraged, guided and protected by the State.

Article 146.—The State shall, through the employment of scientific technique, develop river conservancy, increase the productivity of the land, improve agricultural environment, plan for the utilization of land, and develop agricultural resources in order to bring about industrialization of agriculture.

Article 147.—The Central Government, in order to seek a balanced conomic development among the provinces, shall give appropriate aid to poor and unproductive provinces. The province, in order to seek a balanced economic development among the Hsien, shall give appropriate aid to poor and unproductive Hsien.

Article 148.—Within the boundaries of the Republic of China, all goods shall be permitted to move freely.

Article 149.—Financial organizations shall be subject to State Control in accordance with law.

Article 150.—The State shall establish extensive financial organizations to relieve unemployment.

Article 151.—The State, with respect to Chinese nationals residing abroad, shall assist and protect the development of their economic enterprises.

Section 4.—Social Security

Article 152.—The State shall provide opportunity for suitable work to all people who have ability to work.

Article 153.—The State, in order to improve the livelihood of labourers and farmers and to enpace their productive technical skill, shall enact laws for the protection of labourers and farmers, and shall enforce the policy of protection of labourers and farmers.

Women and children engaged in work of labour shall be given special protection according to their age and physical condition.

Article 154.—Capital and Labour shall, in accordance with the principles of harmony and co-operation, develop productive enterprises. Conciliation and arbitration of disputes between Capital and Labour shall be regulated by Law.

Article 155.—The State, in order to promote social welfare, shall enforce the social insurance system. To the aged, weak and the crippled among the people who are unable to earn a living and to victims of unusual calamities, the State shall give appropriate assistance and relief.

Article 156.—The State, in order to strengthen the foundation of national existence and development, shall protect Motherhood and enforce the policy of promoting the welfare of women and children.

Article 157.—The State, in order to improve national health, shall establish extensive sanitation and health protection enterprises and a system of public medical service.

Section 5.—Education and Culture

Article 158.—Education and Culture shall aim at the development of the national spirit and the democratic spirit and the development of a national morality, a sound and healthy physique, sciences and the knowledge and ability of earning a livelihood.

Article 159.—The citizens shall have equal opportunity of receiving education.

Article 160.—Children of school age from six to twelve shall all receive basic education free of tuition, and those who are poor shall be supplied with books by the Government.

Citizens who have passed school age but have not received the basic education shall all receive supplementary education free of tuition, and shall be supplied with books by the Government.

Article 161.—The various grades of government shall establish extensive scholarships to assist poor students who possess a good record in scholarship and conduct but who are unable to pursue advanced education.

Article 162.—All the public and private educational and cultural organizations in the whole country shall be subject to the supervision of the State in accordance with law.

Article 163.—The State shall pay due attention to the balanced development of education in various areas, and shall promote social education in order to raise the cultural standard of the citizens generally. Educational and cultural expenses for frontier regions and poor and unproductive regions shall be subsidized by the National Treasury, and the more important educational and cultural enterprises may be undertaken or subsidized by the Central Government.

Article 164.—Expenses for education, sciences and culture shall not be less than 15 per cent of the total amount of the budget estimate in the case of the Central Government, not less than 25 per cent of the total amount of the budget estimate in the case of the province, and not less than 35 per cent of the total amount of the budget estimate in the case of the Hsien. Educational and cultural foundations established in accordance with law and their properties shall be protected.

Article 165.—The State shall safeguard the livelihood and working conditions of persons engaged in education, sciences and or arts and shall in accordance with the development of national economy, improve their treatment from time to time.

Article 166.—The State shall encourage scientific inventions and creations and shall protect old landmarks and relics of historical, cultural or artistic interest.

Article 167.—The State shall give encouragement or aid to following enterprises or individuals:

(1) Private-operated educational enterprises in the country with good record.

(2) Educational enterprises operated by Chinese nationals abroad with good record.

(3) Persons who have made discoveries in learning or in techniques.

(4) Persons engaged in education with good record and with long period of service.

Section 6.—Frontier Regions

Article 168.—The State shall accord legal protection to the status of the various peoples in the frontier regions, and shall give special assistance to their local self-government work.

Article 169.—The State shall positively undertake and assist the development of educational, cultural, communications, water conservancy, health and other economic and social enterprises of the various peoples in the frontier

regions. With respect to the utilization of land, the States shall, according to the climate and the nature of the soil and in the light of what is deemed suitable to the life and habits of the people, give the land protection and help its development.

CHAPTER XIV.—*Enforcement and Amendments of the Constitution*

Article 170.—The word "Law", as termed in this Constitution, means whatever is passed by the Legislative Yuan and promulgated by the President as Law.

Article 171.—Laws in conflict with the Constitution shall be null and void.

When a doubt arises as to whether or not a law is in conflict with the Constitution, it shall be interpreted by the Judicial Yuan.

Article 172.—Ordinances in conflict with the Constitution or with laws shall be null and void.

Article 173.—The Constitution shall be interpreted by the Judicial Yuan.

Article 174.—Amendments of the Constitution shall be made in accordance with one of the following procedures:

(1) Upon the proposal of one-fifth of the total number of the delegates to the National Assembly and by a resolution of three-fourths of the delegates present at a meeting having a quorum of two-thirds of the entire Assembly, an amendment may be made.

(2) Upon the proposal of one-fourth of the Members of the Legislative Yuan and by a resolution of three-fourths of the Members present at a meeting having a quorum of three-fourths of the Members of the Yuan, an amendment may be drawn up and submitted to the National Assembly for referendum. Such a proposed amendment of the Constitution shall be publicly announced six months before the opening of he National Assembly.

Article 175.—Matters provided in this Constitution which require separate enforcement rules shall be prescribed by law.

The preparatory procedure for the enforcement of this Constitution shall be decided upon by the Constitution-making National Assembly.

JAPAN

(Authorized translation of text of the Japanese Constitution, approved by the Japanese Diet, 7th October, 1946, and promulgated 3rd November, 1946)

PREAMBLE

We, the Japanese people, acting through our duly elected representatives in the National Diet, determined that we shall secure for ourselves and our posterity the fruits of peaceful co-operation with all nations and the blessings of liberty throughout this land, and resolved that never again shall we be visited with the horrors of war through the action of government, do proclaim the sovereignty of the people's will and do ordain and establish this Constitution, founded upon the universal principle that government is a sacred trust the authority for which is derived from the people, the powers of which are exercised by the representatives of the people, and the benefits of which are enjoyed by the people ; and we reject and revoke all constitutions, laws, ordinances, and rescripts in conflict herewith.

Desiring peace for all time and fully conscious of the high ideals controlling human relationship now stirring mankind, we have determined to rely for our security and survival upon the justice and good faith of the peace-loving peoples of the world. We desire to occupy an honoured place in an international society designed and dedicated to the preservation of peace, and the banishment of tyranny and slavery, oppression and intolerance for all time from the earth. We recognize and acknowledge that all peoples have the right to live in peace, free from fear and want.

We hold that no people is responsible to itself alone, but that laws of political morality are universal ; and that obedience to such laws is incumbent upon all peoples who would sustain their own sovereignty and justify their sovereign relationship with other peoples.

To these high principles and purposes we, the Japanese people, pledge our national honour, determined will and full resources.

CHAPTER I.—*The Emperor*

Article I.—The Emperor shall be the symbol of the State and of the unity of the people, deriving his position from the will of the people with whom resides sovereign power.

Article II.—The Imperial Throne shall be dynastic and succeeded to in accordance with the Imperial House Law passed by the Diet.

Article III.—The advice and approval of the Cabinet shall be required for all acts of the Emperor in matters of state, and the Cabinet shall be responsible therefor.

Article IV.—The Emperor shall perform only such acts in matters of state as are provided for in this Constitution. Never shall he have power related to government.

The Emperor may delegate the performance of his acts in matters of state as may be provided by law.

Article V.—When, in accordance with the Imperial House Law, a Regency is established, the Regent shall perform his act in matters of state

in the Emperor's name. In this case, paragraph one of the preceding article will be applicable.

Article VI.—The Emperor shall appoint the Prime Minister as designated by the Diet.

The Emperor shall appoint the judge to head the Supreme Court, as designated by the Cabinet.

Article VII.—The Emperor, with the advice and approval of the Cabinet, shall perform the following acts in matters of state on behalf of the people.

Promulgation of amendments of the Constitution, laws, cabinet orders and treaties.

Convocation of the Diet.

Dissolution of the House of Representatives.

Proclamation of General Election.

Attestation of the appointment and dismissal of Ministers of State and other officials as provided for by law, and of full powers and credentials of Ambassadors and Ministers.

Attestation of general and special amnesty, commutation of punishment, reprieve, and restoration of rights.

Awarding of honours.

Attestation of instruments of ratification and other diplomatic documents as provided for by law.

Receiving Foreign Ambassadors and Ministers.

Performance of ceremonial functions.

Article VIII.—No property can be given to, or received by, the Imperial House, and no gifts can be made thereby, without the authorization of the Diet.

CHAPTER 2.—*Renunciation of War*

Article IX.—Aspiring to an international peace based on justice and order, the Japanese people renounce war forever as a sovereign right of the nation, and the threat or use of force as a means of settling disputes with other nations.

For the above purpose, land, sea, and air forces, as well as other war potential, will never be maintained. The right of belligerency of the state will not be recognized.

CHAPTER 3.—*Rights and Duties of the People*

Article X.—The qualification for Japanese citizenship shall be determined by law.

Article XI.—The people shall not be prevented from enjoying any of the fundamental human rights. These fundamental human rights guaranteed to the people by this Constitution shall be conferred upon the people of this and future generations as eternal and inviolate rights.

Article XII.—The enjoyment of the freedom and rights guaranteed to the people by this Constitution shall be maintained by the eternal vigilance of the people, and the people shall refrain from any abuse of these freedoms

and rights and shall always be responsible for utilizing them for the public welfare.

Article XIII.—All of the people shall be respected as individuals, and their rights to life, liberty, and the pursuit of happiness shall, within the limits of the public welfare, be the supreme consideration in legislation and in governmental affairs.

Article XIV.—All of the people are equal under the law and there shall be no discrimination in political, economic, or social relations because of race, creed, sex, social status, or family origin. Peers and peerage shall not be recognized. No privilege shall accompany any award of honour, decoration or any distinction, nor shall any such award be valid beyond the lifetime of the individual who now holds or hereafter may receive it.

Article XV.—The people have the inalienable right to choose their public officials and to dismiss them.

All public officials are servants of the whole community and not of any special group.

Universal adult suffrage is guaranteed with regard to the election of public officials.

In all elections, secrecy of the ballot shall be preserved inviolate, nor shall any voter be answerable, publicly or privately, for the choice he has made.

Article XVI.—Every person has the right of peaceful petition for the redress of damage, for the removal of public officials, for the enactment, repeal or amendment of laws, ordinances or regulations and for other matters; nor shall any person be in any way discriminated against for sponsoring such a petition.

Article XVII.—Every person has the right to sue for redress as provided by law from the state or a public entity, in case he has suffered damage through illegal act of any public official.

Article XVIII.—No person shall be held in bondage of any kind. Involuntary servitude, except as punishment for crime, is prohibited.

Article XIX.—Freedom of thought and conscience shall be held inviolable.

Article XX.—Freedom of religion is guaranteed to all. No religious organization shall receive any privileges from the State, nor exercise any political authority.

No person shall be compelled to take part in any religious act, celebration, rite or practice.

The State and its organs shall refrain from religious education or any other religious activity.

Article XXI.—Freedom of assembly, association, speech, and press and all other forms of expression are guaranteed. No censorship shall be maintained, nor shall the secrecy of any means of communication be violated.

Article XXII.—Every person shall have freedom to choose and change his residence and to choose his occupation to the extent that it does not interfere with the public welfare.

Freedom of all persons to move to a foreign country and to divest themselves of their nationality shall be inviolate.

Article XXIII.—Academic freedom is guaranteed.

Article XXIV.—Marriage shall be based only on the mutual consent of both sexes and it shall be maintained through mutual co-operation, with the equal rights of husband and wife as a basis. Laws shall be enacted considering choice of spouse, property rights, inheritance, choice of domicile, divorce and other matters pertaining to marriage and the family from the standpoint of individual dignity and the essential equality of the sexes.

Article XXV.—All people shall have the right to maintain the minimum st andards of wholesome and cultured living.

Article XXVI.—All people shall have the right to receive an equal education correspondent to their ability, as provided by law.

All people shall be obligated to ensure that all the children under their protection receive elementary education as provided for by law. Such education shall be free.

Article XXVII.—All people have the right and the obligation to work. Standards of working conditions, wages, hours, and rest shall be fixed by law. The exploitation of children shall be prohibited.

Article XXVIII.—The right of workers to organize and to bargain and act collectively is guaranteed.

Article XXIX.—The right to own property is inviolable, but property rights shall be defined by law, in conformity with the public welfare. Private property may be taken for public use upon just compensation therefor.

Article XXX.—The people are liable to taxation as fixed by law.

Article XXXI.—No person shall be deprived of life or liberty, nor shall any other criminal penalty be imposed, except according to procedure established by law.

Article XXXII.—No person shall be denied the right of access to the courts.

Article XXXIII.—No person shall be apprehended except upon warrant issued by a competent judicial officer which specifies the offence with which the person is charged, unless he is apprehended while committing a crime.

Article XXXIV.—No person shall be arrested or detained without being at once informed of the charges against him or without the immediate privilege of counsel; nor shall he be detained without adequate cause; and upon demand of any person such cause must be immediately shown in open court in his presence and the presence of his counsel.

Article XXXV.—The right of all persons to be secure in their homes, papers and effects against entries, searches and seizures shall not be impaired except upon warrant issued only for probable cause, and particularly describing the place to be searched and things to be seized, or except as provided by Article XXXIII.

Each search or seizure shall be made upon separate warrant issued for the purpose by a competent judicial officer.

Article XXXVI.—The infliction of torture by any public officer and cruel punishments are absolutely forbidden.

Article XXXVII.—In all criminal cases the accused shall enjoy the right to a speedy and public trial by an impartial tribunal.

He shall be permitted full opportunity to examine all witnesses, and he shall have the right of compulsory process for obtaining witnesses on his behalf at public expense.

At all times the accused shall have the assistance of competent counsel who shall, if the accused be unable to secure the same by his own efforts, be assigned to his use by the Government.

Article XXXVIII.—No person shall be compelled to testify against himself.

No confession shall be admitted in evidence if made under compulsion, torture or threat, or after prolonged arrest or detention.

No person shall be convicted or punished in cases where the only proof against him is his own confession.

Article XXXIX.—No person shall be held criminally liable for an act which was lawful at the time it was committed, or of which he has been acquitted nor shall he, in any way, be placed in double jeopardy.

Article XL.—Any person, in case he is acquitted after he has been arrested or detained, may sue the state for redress as provided by law.

CHAPTER 4.—*The Diet*

Article XLI.—The Diet shall be the highest organ of state power, and shall be the sole law-making authority of the State.

Article XLII.—The Diet shall consist of two houses, namely the House of Representatives and the House of Councillors.

Article XLIII.—Both Houses shall consist of elected members, representative of all the people.

The number of the members of each House shall be fixed by law.

Article XLIV.—The qualifications of electors and members of both Houses shall be fixed by law. However, there shall be no discrimination because of race, creed, sex, social status, family origin, education, property or income.

Article XLV.—The term of office of members of the House of Representatives shall be four years. However, the term may be terminated before the full term is up by dissolution of the House of Representatives.

Article XLVI.—The term of office of the members of the House of Councillors shall be six years. Election for half the members shall take place every three years.

Article XLVII.—Matters pertaining to the method of election of members of both Houses, electoral districts, and method of voting, shall be fixed by law.

Article XLVIII.—No person shall be permitted to be a member of both Houses simultaneously.

Article XLIX.—Members of both Houses shall receive appropriate annual payment from the national treasury in accordance with law.

Article L.—Except in cases provided by law, members of both Houses shall be exempt from arrest while the Diet is in session. Any members arrested before the opening of the session shall be freed during the term of the session upon demand of the House.

Article LI.—Members of both Houses shall not be held liable outside the House for speeches, debates, or votes cast inside the House.

Article LII.—An ordinary session of the Diet shall be convoked once per year.

Article LIII.—The Cabinet may call extraordinary sessions of the Diet. When a quarter or more of the total members of either House makes the demand, the Diet must be called into session.

Article LIV.—When the House of Representatives is ordered dissolved there must be a general election of members of the House of Representative within forty (40) days from the date of dissolution, and the Diet must be convoked within thirty (30) days from the date of the election. When the House of Representatives is ordered dissolved, the House of Councillors must, at the same time, be closed, except that the Cabinet may in time of national emergency convoke the House of Councillors in emergency session.

Measures enacted at such session shall be provisional and shall become null and void unless agreed to by the House of Representatives within a period of ten (10) days after the opening of the next session of the Diet.

Article LV.—Each House shall judge disputes related to qualification of its members. However, in order to deny a seat to any member, it is necessary to pass a resolution by a majority of two-thirds or more of the members present.

Article LVI.—Business cannot be transacted in either House unless at least one-third of the total membership is present.

All matters shall be decided, in each House, by a majority of those present except as elsewhere provided in the Constitution. In case of a tie, the presiding officer shall decide the issue.

Article LVII.—Deliberation in each House shall be public. However, a secret meeting may be held where a majority of two-thirds or more of those members present passes a resolution therefor.

Each House shall keep a record of proceedings. This record shall be published and given general circulation, excepting such parts of proceedings of secret session as may be deemed to require secrecy.

Upon demand of one-fifth or more of the members present, votes of the members on any matter shall be recorded in the minutes.

Article LVIII.—Each House shall select its own president and other officials.

Each House shall establish its rules pertaining to meetings, proceedings and internal discipline, and may punish members for disorderly conduct. However, in order to expel a member, a majority of two-thirds or more of those members present must pass a resolution thereon.

Article LIX.—A bill becomes a law on passage by both Houses, except as otherwise provided by the Constitution.

A bill which is passed by the House of Representatives, and upon which the House of Councillors makes a decision different from that of the House of Representatives, becomes a law when passed a second time by the House of Representatives by a majority of two-thirds or more of the members present.

The provision of the preceding paragraph does not preclude the House of Representatives from calling for the meeting of a joint committee of both Houses, as provided for by law.

Failure by the House of Councillors to take final action within sixty (60) days after receipt of a bill passed by the House of Representatives, time in recess excepted, may be determined by the House of Representatives to constitute a rejection.

Article LX.—The budget must first be submitted to the House of Representatives.

Upon consideration of the budget, when the House of Councillors makes a decision different from that of the House of Representatives, and when a joint committee of both Houses, provided for by law, cannot come to an agreement, or in the case of failure by the House of Councillors to take final action within thirty (30) days, the period of recess excluded, after the receipt of the budget passed by the House of Representatives, the decision of the House of Representatives will be considered the decision of the Diet.

Article LXI.—The second paragraph of the preceding article applies also to the Diet approval required for the conclusion of treaties.

Article LXII.—Each House may conduct investigations in relation to Government, and may compel the presence and testimony of witnesses, and the production of records.

Article LXIII.—The Prime Minister and the Ministers of State may, at any time, appear in either House for the purpose of debating on bills, regardless of whether they are members of the House or not. They must appear when their presence is required in order to give answers or explanations.

Article LXIV.—The Diet shall set up an impeachment court from the members of both Houses for the purpose of trying those judges against whom removal proceedings have been instituted.

Matters relating to impeachment shall be provided by law.

CHAPTER 5.—*The Cabinet*

Article LXV.—Executive power shall be vested in the Cabinet.

Article LXVI.—The Cabinet shall consist of the Prime Minister who shall be its head, and other Ministers of State as provided for by law.

The Prime Minister and other Ministers of State shall be civilians.

The Cabinet, in the exercise of executive power, shall be collectively responsible to the Diet.

Article LXVII.—The Prime Minister shall be designated from among the members of the Diet by a resolution of the Diet. This designation shall precede all other business.

If the House of Representatives and the House of Councillors disagree and if a joint committee of both Houses, provided for by law, cannot reach an agreement, or the House of Councillors fails to make designation within ten (10) days, exclusive of the period of recess, after the House of Representatives has made designation, the decision of the House of Representatives shall be the decision of the Diet.

Article LXVIII.—The Prime Minister shall appoint the Ministers of State. However, a majority of their number must be chosen from among the members of the Diet.

The Prime Minister may remove the Ministers of State as he chooses.

Article LXIX.—If the House of Representatives passes a no-confidence resolution, or rejects a confidence resolution, the Cabinet shall resign *en masse*, unless the House of Representatives is dissolved within ten (10) days.

Article LXX.—When there is a vacancy in the post of Prime Minister or upon the convocation of the Diet after a general election, the Cabinet shall resign *en masse*.

Article LXXI.—In the cases mentioned in the two preceding articles the Cabinet shall continue its functions until the time when a new Prime Minister is appointed.

Article LXII.—The Prime Minister representing the Cabinet, submits bills, reports on general national affairs and foreign relations to the Diets, and exercises supervision and control over various administrative branches.

Article LXXIII.—The Cabinet, in addition to other general administrative functions, shall:

Administer the law faithfully. Conduct affairs of State. Manage foreign affairs.

Conclude treaties. (However, it shall obtain prior or, depending on circumstances, subsequent approval of the Diet.)

In accordance with standards established by law, administer the civil service.

Prepare the budget and present it to the Diet.

Enact cabinet orders in order to carry out the provisions of this Constitution and of the law. However, it cannot include penal provisions in such cabinet order unless authorized by such law.

Decide on general amnesty, special amnesty, commutation of punishment, reprieve and restoration of rights.

Article LXXIV.—All laws and cabinet orders shall be signed by the competent Minister of State and countersigned by the Prime Minister.

Article LXXV.—The Ministers of State, during their tenure of office, shall not be subject to legal action without the consent of the Prime Minister, but the right to take that action is not impaired hereby.

Chapter 6.—*Judiciary*

Article LXXVI.—The whole judicial power is vested in a Supreme Court as are established by law.

No extraordinary tribunal shall be established, nor shall any organ or agency of the Executive be given final judicial power.

All judges shall be independent in the exercise of their conscience and shall be bound only by this Constitution and the laws enacted persuant thereto.

Article LXVII.—The Supreme Court is vested with the rule-making power under which it determines the rules of procedure and of practice, and of matters relating to attorneys, the internal discipline of the courts and the administration of judicial affairs.

Public procurators shall be subject to the rule-making power of the Supreme Court.

The Supreme Court may delegate the power to make rules for inferior courts to such courts.

Article LXXVIII.—Removals of judges shall be accomplished by public impeachment only unless judicially declared mentally or physically incompetent. No disciplinary action shall be administered by any executive organ or agency.

Article LXXIX.—The Supreme Court shall consist of a judge who is its head and such number of judges as may be determined by law; all such judges, excepting the judge who is its head, shall be appointed by the Cabinet.

The appointment of the judges of the Supreme Court shall be reviewed by the people at the first general election of the House of Representatives following their appointment, and shall be reviewed again at the first general election of the House of Representatives after a lapse of ten (10) years, and in the same manner thereafter.

In cases mentioned in the foregoing paragraph, when the majority of the voters show that they favour the dismissal of a judge concerned, he shall be dismissed.

Matters pertaining to the review mentioned in the foregoing paragraphs shall be prescribed by law.

The judges of the Supreme Court shall be retired upon the attainment of the age as fixed by law.

All such judges shall receive, at regular, stated intervals, adequate compensation which shall not be decreased during their terms of office.

Article LXXX.—The judges of the inferior courts shall be appointed by the Cabinet from a list of persons nominated by the Supreme Court. All such judges shall hold office for a term of ten (10) years with privilege of reappointment, provided that they shall be retired upon the attainment of the age as fixed by law.

The judges of the inferior courts shall receive, at regular stated intervals, adequate compensation which shall not be decreased during their terms of office.

Article LXXXI.—The Supreme Court is the court of last resort with power to determine the constitutionality of any law, order, regulation or official act.

Article LXXXII.—Trials shall be conducted and judgment declared publicly. Where, however, a court unanimously determines publicity to be dangerous to public order or morals, a trial may be conducted privately, but trials of political offences, offences involving the press and cases where in the rights of people as reserved in Chapter 3 of this Constitution are in question shall be conducted publicly without exception.

Chapter 7.—*Finance*

Article LXXXIII.—The power to administer national finances shall be exercised as the Diet shall determine.

Article LXXXIV.—No new taxes shall be imposed or existing ones modified except by law or under such conditions as law may prescribe.

Article LXXXV.—No money shall be expended, nor shall the State obligate itself, except as authorized by the Diet.

Article LXXXVI.—The Cabinet shall prepare and submit to the Diet for its consideration and decision an annual budget for each fiscal year.

Article LXXXVII.—In order to provide for unforeseen deficiencies in the budget a reserve fund may be authorized by the Diet to be expended upon the responsibility of the Cabinet.

The Cabinet shall be held accountable to the Diet for all payments from the reserve fund.

Article LXXXVIII.—All property of the Imperial Household shall belong to the State. All expenses of the Imperial Household shall be appropriated by the Diet in the budget.

Article LXXXIX.—No public money or property shall be appropriated for the use, benefit or support of any system of religion, or religious institution or association, or for any charitable, educational or benevolent purposes not under the control of public authority.

Article XC.—A final audit of all expenditures and revenues of the State shall be made annually by a Board of Audit and submitted by the Cabinet to the Diet during the fiscal year immediately following the period covered.

The organization and competency of the Board of Audit shall be determined by law.

Article XCI.—At regular intervals and at least annually the Cabinet shall report to the Diet and the people on the state of national finances.

Chapter 8.—*Local Self-Government*

Article XCII.—Regulations concerning organization and operations of local public entities shall be fixed by law in accordance with the principle of local autonomy.

Article XCIII.—The local public entities shall establish assemblies as their deliberative organs, in accordance with law.

The chief executive officers of all local public entities, the members of their legislative assemblies, and such other local officials as may be determined by law shall be elected by direct popular vote within their several communities.

Article XCIV.—Local public entities shall have the right to manage their property, affairs and administration, and to enact their own regulations within such laws as the Diet may enact.

Article XCV.—A special law, applicable only to one local public entity, cannot be enacted by the Diet without the consent of the majority of the voters of the local public entity concerned, obtained in accordance with law.

Chapter 9.—*Amendments*

Article XCVI.—Amendments to this Constitution shall be initiated by the Diet, through a concurring vote of two-thirds of all the members of each House and shall thereupon be submitted to the people for ratification, which shall require the affirmative vote of a majority of all votes cast thereon, at a special referendum or at such election as the Die shall specify.

Amendments when so ratified shall immediately be proclaimed by the Emperor in the name of the people, as an integral part of this Constitution.

CHAPTER 10.—*Supreme Law*

Article XCVII.—The fundamental human rights by this Constitution guaranteed to the people of Japan result from the age-old struggle of man to be free. They have survived the exacting test of durability in the crucible of time and experience, and are conferred upon this and future generation in sacred trust, to be held for all time inviolate.

Article XCVIII.—This Constitution shall be the supreme law of the State, and no public law or ordinance and no Imperial rescript or other act of government, or part thereof, contrary to the provisions hereof, shall have legal force or validity.

The treaties concluded by Japan and established of nations shall be faithfully observed.

Article XCIX.—The Emperor or the Regent, as well as the Ministers of State, the members of the Diet, judges, and all other public officials have the obligation to respect and uphold this Constitution.

CHAPTER 11.—*Supplementary Provisions*

Article C.—This Constitution shall be enforced as from the day when the period of six months will have elapsed counting from the day of its promulgation.

The enactment of laws necessary for the enforcement of this Constitution, the election of members of the House of Councillors and the procedure for the convocation of the Diet and other preparatory procedures necessary for the enforcement of this Constitution may be executed before the day prescribed in the preceding paragraph.

Article CI.—If the House of Councillors is not constituted before the effective date of this Constitution, the House of Representatives shall sit as the Diet on that date and until such time as the House of Councillors shall be constituted.

Article CII.—The term of office for half the members of the House of Councillors serving in the first term under this Constitution shall be three years. Members falling under this category shall be determined in accordance with law.

Article CIII.—The Ministers of State, members of the House of Representatives and judges in office on the effective date of this Constitution, and all other public officials who occupy positions corresponding to such positions as are recognized by this Constitution shall not forfeit their positions automatically on the effective date of this Constitution unless otherwise specified by law. When, however, successors are elected or appointed under the provisions of this Constitution they shall forfeit their positions as a matter of course.

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A Bird's-Eye View of the Principal Federations and Unions in the World

	United States 1787	Canada 1867	Switzerland 1874	Australia 1900	South Africa 1909	Soviet Russia 1936
A. General—						
(1) Area	3,738,395 Sq. Miles	3,695,189 Sq. Miles	15,976 Sq. Miles	2,974,581 Sq. Miles	472,494 Sq. Miles	8,173,550 Sq. Miles in 1938. 8,336,510 Sq. Miles in 1942.
(2) Population	150,630,720—1940	11,506,655—1941	4,265,703—1941	6,629,839—1933	9,589,898—1936	170,467,572—1939. 193,710,000—Estimate of 1939 including the new areas.
B. Executive—						
(1) Composition	Executive authority vested in the President, elected every fourth (leap) year by electoral delegates chosen by the people. Each State can elect as many delegates as it has members in both Houses of the Congress. Absolute majority required for election. Where no candidate secures such a majority the House of Representatives elects him. The convention that no one should be elected as President for more than two terms disregarded by Roosevelt. Salary and allowances: $100,000. The Vice-President is elected in the same manner as the President. Only, where a candidate fails to secure a majority of the votes of the Electors, he is elected by the Senate. He presides over the Senate, and, on the death of the President, becomes *ex-officio* President for the rest of the term. Both President and Vice-President removable from office only by impeachment. President's "Cabinet" composed of 10 heads of departments, called Secretaries, appointed by him, subject to the nominal approval of the Senate, and answerable only to him.	Executive authority vested in the Crown represented in the Dominion by the Governor-General, appointed by the King on the advice of the Dominion Cabinet and holding Office normally for 5 years. Th Dominion Cabinet is, headed by the Prime Minister, the leader of the majority party in the Parliament and is composed of 19 other Ministers. No Minister can hold office for more than 3 months unless he becomes a member of either House of Parliament.	Executive authority vested in the Federal Council, composed of 7 members, including the President and the Vice-President. The President and the Vice-President annually elected by the Legislature from among the members of the Federal Council. Re-election of an incumbent President or Vice-President prohibited by the Constitution. By usage, the two offices rotate among the members of the Council. The 7 members of the Federal Council elected by the Legislature once in four years. Not more than one to be elected from the same Canton. By usage, Zurich and Bern with the largest population, Vaud and one other French speaking Canton always represented. Re-election of councillors as long as they wish to serve customary. All the leading parties represented in the Council.	Same as in Canada. At present the Prime Minister and 18 other Ministers of State form the Dominion Cabinet.	Same as in Canada. The Dominion Cabinet, known as the Executive Council, is composed at present of the Prime Minister and 11 other Ministers.	Supreme executive powers vested in the Council of People's Commissars. No formal titular Head of State, but foreign ambassadors present their credentials to the chairman of the Presidium. People's Commissars elected by the Supreme Soviet, *i.e.*, the Legislature. Presidium: 36 members. A sort of Committee of the Supreme Soviet, exercising very important powers when the Supreme Soviet is not in session.

	United States 1787	Canada 1867	Switzerland 1874	Australia 1900	South Africa 1909	Soviet Russia 1936
(2) Powers . . .	The President is the Commander-in-Chief of the Army, Navy and Air Force; receives ambassadors, etc.; and makes treaties subject to the consent of 2/3rds majority of the Senate. He appoints ambassadors, consuls, judges of the supreme court; and such inferior officers as provided for by law. Judicial decisions have clothed him with wide powers of removing public officials, including those appointed by the Senate. Neither the President nor the members of his "Cabinet" are members of either House of the Congress. He recommends measures for its consideration. He has an absolute veto over legislation which can only be overcome by a measure being passed by 2/3rds majority by each of the two Houses. He has also what is called the "Pocket Veto": a measure, passed within 10 days of the adjournment of the Congress and not assented to by the President, is deemed to have lapsed.	Governor General acts as the constitutional head of the Government in all matters. The Dominion Cabinet initiates all policies, internal and external, carries them out, leads the legislature and is in charge of the whole administration.	The President has none but purely formal powers, the principal one being that of presiding over the Federal Council. He is in charge of one of the administrative departments. Decisions of the Federal Council reached by majority vote. Federal Councillors cannot be members of the Legislature, but have a right to attend and participate in its discussions. Federal Councillors do not resign if their policy comes into conflict with that of the Legislature, but accept the directions of the latter in all matters. Councillors have great influence due to their long years of service.	Same as in Canada . .	Same as in Canada . .	The People's Commissars run the administration of the Federation. They have powers to suspend the orders of the executive agencies of the Constituent Republics, if such orders violate federal laws or decrees. In the discharge of their duties they are subject to the control of the Presidium. The Presidium *inter alia* convenes the sessions of the Supreme Soviet, dissolves it in case of conflict between its two chambers; interprets existing laws; issues decrees; revokes the orders of the People's Commissars and of the Constituent Republics; holds referendums on its own initiative or otherwise; appoints and dismisses the high command of the armed forces; declares war and orders mobilisation; and appoints and recalls ambassadors.
C.—Legislature—						
(1) Lower House :						
(a) Composition :	House of Representatives : 435 seats distributed on a population basis, not exceeding one per 30,000 inhabitants, but with a minimum representation of one for each State.	House of Commons : Distribution of seats among provinces on the basis of population, the seats of other provinces being fixed in relation to that of Quebec which has a fixed representation of 65 members.	National Council. One member for every 22,000 inhabitants and at least one member for each Half-Canton irrespective of its population strength.	House of Representatives. Distribution of seats on the basis of population with a minimum of 5 representatives for each State.	House of Assembly. Distribution of seats in proportion to the number of European adults in the province.	Council of the Union : One deputy elected for every 300,000 of the population.
	One delegate each from Alaska and Hawaii, a "resident Commissioner" from Puerto Rico and from the Philippines are admitted with a right to speak on any subject and to make motions, but not to vote.	Present strength : 245.	Present strength : 194.	Present strength : 74.	Present strength : 150. Native voters of the Cape Colony elect 3 members who form additional members of the House of Assembly and who hold their seats for 5 years notwithstanding any dissolution of the House.	Present strength : 1,339.

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	United States 1787	Canada 1867	Switzerland 1874	Australia 1900	South Africa 1909	Soviet Russia 1936
	A representative must be at least 25 years of age, a citizen of the United States for at least 7 years and also an inhabitant of the State he represents.	A qualified voter, and a natural born or a naturalised citizen.	Clergymen, and members of the Federal Council, the executive organ of the State, specifically excluded.	21 years of age, a natural born citizen or a naturalised subject of the King for 5 years and resident within the Commonwealth for 3 years.	Resident for 5 years in the Union and a British subject of European descent.	Every elector entitled to stand as a candidate.
(*b*) Mode of Election	Term: 2 years. Direct election, the franchise being the same as for "the most numerous branch of the State Legislature." Disqualification on the ground of race, colour or sex forbidden. Universal adult franchise adopted in practice by all the States, subject to the limitations of literacy qualification administered in many of the Southern States in such a way as to exclude the negroes.	Term: 5 years. Direct election. All adults enfranchised. No property qualification.	Term: 4 years. Direct election by the method of proportional representation. Universal adult male franchise.	Term: 3 years. Direct election. Universal adult (male and female) suffrage.	Term: 5 years. Direct election. Universal adult (male and female) suffrage, but only persons of European descent enfranchised.	Term: 4 years. Universal, adult, direct and secret suffrage. Age: 18. Those employing others for profit, private businessmen, monks and priests disenfranchised. The only legal party is the Communist party.
(*c*) Powers	Since members of the Executive Government do not sit in the House, there is no Question Hour, and the procedure in respect of passage of Bills also greatly differs from that of the British House of Commons. All revenue Bills originate here. Increase in proposed expenditure permitted.	Powers and procedure generally the same as in the British House of Commons. Interpellations play a prominent part; money bills originate in the Lower House; and all appropriation measures must be initiated by the Executive Government.	Few parliaments have more miscellaneous duties. In addition to its main function of enacting laws and passing the budget, it appoints Federal Councillors, the Commander-in-Chief, and Federal Judges; grants amnesties and pardons; and settles administrative disputes and conflicts of jurisdiction between federal officials.	Same as in Canada.	Same as in Canada.	Meets twice a year, and wields supreme power in all matters.
(2) The Upper House	Senate.	Senate.	Council of States.	Senate.	Senate.	Council of Nationalities.
(*a*) Composition	Two Senators per State. Total strength: 96.	Maximum membership fixed by constitution 104. 24 representatives from each of the four main divisions: Ontario, Quebec, Maritime Provinces and Western Provinces. No equality of representation among constituent units as such. Present membership: 96.	Two from each Canton and one from each Half-Canton. Total strength: 44.	6 members for each State. Total strength: 36.	8 members for each of the four provinces, and 8 nominated by the Governor-General in Council, 4 of whom are nominated to represent native interests. 4 additional members elected by the native population of the Union.	25 deputies from each Union Republic, 11 from each Autonomous Republic, 5 from each Autonomous Region and 1 from each National Area. Present strength: 647.
	30 years of age, citizen of the United States for 9 years and an inhabitant of the State he represents. Ministers and other officials debarred.	30 years of age, resident of the Province he represents (in Quebec, also of the electoral division), property qualification of 4,000 dollars.	Each Canton free to fix the qualifications.	Same as for the Lower House	30 years of age, qualified as a voter in one of the provinces, resident for 5 years within the Union, property qualification of £5000, and a British subject of European descent.	Every elector entitled to stand as candidate.

	United States 1787	Canada 1867	Switzerland 1874	Australia 1900	South Africa 1909	Soviet Russia 1936
	Term : Continuous, one-third retiring every two years, the term of membership being six years.	Term : Membership for life.	Term : 1 to 4 years, longest in Cantons with direct election.	Term : 6 years.	Term : Elected Senators : 10 years. Nominated Senators : —10 years or until a change of Government or dissolution of the Senate. Senators representing Natives : 5 years.	Term : 4 years.
(b) Mode of Election .	Direct election by the people of each State, the franchise being the same as for the most numerous branch of the State Legislature.	Nomination for life by summons of the Governor-General under the Great Seal of Canada.	Each Canton free to determine its own mode of electing its representatives. Direct election in 21 Cantons, and election by Cantonal Legislatures in four.	Direct election by universal suffrage.	Provincial representatives elected by the House of Assembly and of the Provincial Council for each province sitting together, by the method of proportional representation.	Universal adult direct and secret suffrage.
(c) Powers . . .	Is on the whole the dominant House. The Vice-President of the United States *ex-officio* President. Ambassadors, Judges and other high officials chosen by the President have to be approved by the Senate. Treaties require the consent of 2/3rds of the Senators present. Has sole power to try all impeachments.	Can initiate all legislative measures except money bills. It may reject a money bill but not amend it. In law, vested with wide powers, since only a maximum of 8 members can be nominated to overcome its opposition.	Co-ordinate powers . .	Can initiate all legislative measures except money bills. It may reject a money bill but not amend it. A message of amendment may be sent.	Can initiate all measures except money bills. May not amend money bills so as to increase taxation.	Co-ordinate powers.
(3) Deadlocks between two Houses.	A Joint Conference Committee tries to iron out differences, but no provision for final resolving of deadlocks.	No provision for resolving deadlocks. To overcome the opposition of the Senate a maximum of 8 members can be nominated.	The committees of both the Houses jointly try to iron out differences, but no specific provision for final resolving of conflicts. The institution of Referendum goes a long way in resolving conflicts.	If the Senate rejects or amends a measure to which the House of Representatives does not agree, the Governor-General dissolves the Legislature. If, after the Houses are reconstituted, the House of Representatives passes and the Senate refuses, a joint session is held, and an absolute majority is required for a measure to be passed into law.	Deadlocks resolved in all cases, including money bills, by holding a joint session of the two Houses at which a majority of members present is required for a measure to be passed into law.	Provision made for dissolution of the two chambers in case of deadlock, but all bills must have the approval of both Houses.
(4) Referendum . .	No provision . . .	No provision . . .	Compulsory Referendum in the case of constitutional changes : optional Referendum on laws and treaties and popular initiative in respect of constitutional amendments.	Referendum in the case of amendments to Constitution. *See Col. G.*	No provision . . .	Presidium empowered to hold referendum on its own initiative or on the demand of one of the constituent republics.

	United States 1787	Canada 1867	Switzerland 1874	Australia 1900	South Africa 1909	Soviet Russia 1936
D. Judiciary—	The Supreme Court consists of the Chief Justice and 8 associate Justices, appointed by the President. Original jurisdiction where a State is a party and in cases affecting ambassadors, other public ministers and consuls. Appellate jurisdiction over inferior federal courts and the highest courts of the States both regarding law and fact in all other matters. Jurisdiction of Federal Courts extends to (i) all cases of law and equity under the constitution; (ii) the Law of the United States; (iii) controversies to which the United States is a party; (iv) conflicts between two or more States, etc.	Supreme Court in Ottawa with appellate, civil and criminal, jurisdiction in and throughout Canada.	Federal Tribunal. 24 judges elected by the Federal Assembly for 6 years. The claims of the 3 linguistic areas taken into consideration in electing them. Re-election of a judge as long as he wishes to serve required by convention. Receives appeals from the Cantonal Courts in a few cases. Original jurisdiction in inter-Cantonal Public Law conflicts, inter-Cantonal agreements and treaties, and such other matters. The constitutionality of Federal Statutes cannot, however, be questioned.	Federal High Court, with a Chief Justice and 5 judges appointed by the Governor-General in Council. Has original jurisdiction in all matters arising under treaties, between States of the Commonwealth, or affecting representatives of other countries. It has also appellate jurisdiction over State Supreme Courts. Appeals to the Judicial Committee of the Privy Council are admitted only by special leave of the committee except in certain constitutional cases, where the certificate of the High Court is necessary.	Supreme Court of South Africa: consists of Chief Justice, judges of appeal and judges of the several divisions of the Supreme Court in the provinces. Both original and appellate jurisdiction. Appeal to Privy Council is by special leave, which is generally granted only in cases raising serious constitutional questions.	Supreme Court of the U.S.S.R. consists of 45 Judges and 20 Assessors. Members elected by the Supreme Soviet for 5 years.
E. Relation of the Centre to the Units—	Powers of Federal Legislature enumerated; residuary powers with the States.	Powers of the Federal Legislature and of the Provinces enumerated; residuary powers with the Centre.	Powers of the Confederal Government enumerated, but the Federal Tribunal cannot declare confederal statutes to be unconstitutional.	Powers of the Federal Legislature enumerated; residuary powers with the States.	Powers of the Provincial Councils enumerated; residuary powers with the Centre. All important powers vested in the Union Government, and the Provinces practically reduced to the position of administrative units.	The powers of the Union Government enumerated. Residuary powers with the constituent units.
F. Fundamental Rights—	Provided for by Amendments I—X, XIII—XV and XIX to the Constitution. Designed mainly to secure freedom for the individual as against the State *e.g.*, freedom of speech, assembly and religious worship.	Right to maintain denominational schools secured. No general provisions as in U.S.A.	Provisions similar to the American Fundamental Rights.	S. 116 provides that "the Commonwealth shall not make any law for establishing any religion, or for imposing any religious observance, or for prohibiting the free exercise of any religion, and no religious test shall be required as a qualification for any office or public trust under the Commonwealth." No general provisions as in U. S. A.	No general provisions as in U. S. A. Section 137, however, provides that "both English and Dutch languages shall be official languages of the Union, and shall be treated on a footing of equality and possess equal freedom, rights and privileges."	Provides for both Fundamental Rights and Duties of citizens. Economic rights such as the right to work, leisure, maintenance in old age and education significant. Equal rights to members of all nationalities guaranteed. Among duties may be mentioned service in the Red Army.

	United States 1787	Canada 1867	Switzerland 1874	Australia 1900	South Africa 1909	Soviet Russia 1936
G. Amendment of the constitution—	An amendment may be adopted by Congress with the approval of two-thirds of both houses and may be ratified by the concurrence of the Legislatures or of Conventions, as Congress provides, in three-fourths of the States. Or, on the application of the Legislatures of two-thirds of the States, Congress may call a national convention for the purpose of drafting amendments which become law if ratified by conventions, or by Legislatures, in three-fourths of the States.	Constitution can be amended only by the British Parliament; but the power is never exercised except on a request from Canada.	It may be wholly or partially amended through the forms required for passing Federal laws or by means of the popular initiative. All amendments must be accepted by a majority of the Cantons and receive a majority of the votes cast.	Amendments to constitution must be passed by an absolute majority of each House of the Commonwealth Parliament and then submitted in each State to electors qualified to vote for the election of members of the House of Representatives. In case of disagreement between the two houses, the Governor General may submit the proposed law to the electors in each State qualified to vote. A measure is passed into law if in a majority of the States a majority of the electors approve of it, and if a majority of all the electors also approve of it.	The Union Parliament may by ordinary legislation repeal or alter any of the provisions of the Act. But a two-thirds majority of both the Houses sitting together is required for bills amending S. 35 (native franchise in the Cape Colony) and S. 152 (equality of English and Dutch languages).	May be amended only by a decision of the Supreme Soviet of the U.S.S.R. adopted by a majority of not less than two-thirds of the votes cast in each of its Chambers.

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